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NOTE ON INTERNATIONAL PROTECTION

(submitted by the High Commissioner)

SUMMARY

A description of developments in 1993 in the field of international protection of refugees is contained in the Report of the United Nations High Commissioner for Refugees to the General Assembly through the Economic and Social Council (E/1994/41).

The present Note examines the fundamental concept of international protection and considers ways of meeting the needs of persons of concern to the Office, including those outside of the scope of the 1951 Convention.

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I. BACKGROUND AND INTRODUCTION

1. The flight and exile of the world's twenty million refugees from their homes and their countries is a tragic consequence of the inability or the unwillingness of their Governments to fulfil their responsibility of ensuring respect for their human rights, including the right to personal security, of all the individuals and groups within their territory. The lack of protection within national borders, of which refugee flows are a symptom, also affects the internally displaced and others who have not yet sought, or have not succeeded in reaching, safety in another country. In the present period of transition and upheaval in world affairs, as new States accede to or regain their independance while others are torn in fratricidal violence, there is an alarming proliferation of ethnic and sectarian conflicts, many with the avowed aim of removing one group of people from territory they share with another, violating not only their right to remain in safety at home but also their right ever to return and even their right to life itself. There is as a result every prospect of new, massive refugee flows, coupled with internal displacement and the persistence of current refugee situations. In an international context that includes migratory movements spurred by poverty and economic disruption, population pressures, ecological degradation, and smouldering political conflicts that threaten at any moment to erupt into violent conflicts both within and between nations, the protection of refugees as well as the solution and the prevention of refugee problems present complex challenges for UNHCR, for the States directly concerned, and for the international community as a whole.

2. The Office of the United Nations High Commissioner for Refugees has been charged with the functions of providing international protection to refugees, under the auspices of the United Nations, and of seeking solutions to refugee problems. These functions include ensuring, with and through Governments, the legal and practical protection of refugees, mobilizing and coordinating the deployment of the resources required to ensure their survival and well-being, and promoting conditions in countries of origin that will be conducive to the ideal solution of voluntary repatriation and help prevent future refugee problems. The situations addressed by the Office in performing these functions during the past year have all too frequently involved irreparable human suffering and loss of life. The difficulties confronted have been so considerable as virtually to overshadow the progress made in many areas. In the centre of Africa, sudden and massive new refugee flows fueled by murderous ethnic and political conflict have overwhelmed the reception capacity of neighbouring countries, and, despite measures of emergency preparedness, far outpaced the capacity of UNHCR and the international community to respond effectively and in time. Genocide, civil war, epidemic disease and the lack of food, clean water, shelter, sanitation and personal security have converged in the tragedy of Rwanda to produce a human disaster as well as a refugee crisis of catastrophic dimensions. As with Bosnia and Somalia, the situation in Rwanda demonstrates the limits of humanitarian action in the midst of conflict, as well as the great cost in human misery that can result when early warning is not followed by timely action to avert or contain the outbreak of violence. It also presents daunting challenges for protection, solutions and the prevention of further disasters, not only for UNHCR but for other United Nations and international organizations and for the entire international community.

3. In other parts of the world, as well as in Africa, longstanding refugee situations persist despite international efforts to resolve the conflicts that were

at their source and which continue to impede solutions. In several regions new refugees have been forced to flee armed conflict, generalized violence and grave human rights abuses in their countries of origin. In some cases, refugees, returnees and other persons of concern to the High Commissioner have been subject to murder, rape, torture, unjustified imprisonment and armed attacks, both deliberate and in the crossfire of civil war, on their camps, settlements and homes. In certain instances, asylum-seekers have been rejected at frontiers, detained or confined in closed camps under harsh conditions, intercepted en route to a country of asylum, and forcibly returned to the countries where those who were refugees had reason to fear persecution.

4. On every continent, asylum-seekers have continued to arrive from near and far, sorely taxing the reception capacity, the legal and administrative structures and in many cases the patience and good will of the affected countries. Irregular migration, widespread unemployment and economic difficulties in many countries of asylum and the resurgence of xenophobic sentiments in a number of countries, have continued to strain the institution of asylum, which is crucial for the protection of refugees.

5. Despite these difficulties, progress has been made in many areas, beginning with Africa, where the peaceful transition of South Africa to democratic government is a promising development for the continent. Since the successes of prevention are generally unheralded, it is worth noting that the onset of peace in South Africa means that a major potential refugee crisis has been defused. The repatriation from neighbouring countries to Mozambique, now more than half completed, is a major step towards resolving what had been Africa's largest refugee problem. On other continents, progress includes the projected completion of the Comprehensive Plan of Action for Indochinese Refugees (CPA), preparations for larger scale voluntary repatriation to Myanmar, laying the groundwork in Georgia for the return of internally displaced persons to Abkhazia, the continuing return and reintegration, assisted and monitored by UNHCR, of both refugees and displaced persons in Tajikistan, and, in Guatemala, better prospects for repatriation thanks to progress in internationally sponsored peace negotiations. In every region, almost all Governments have continued to observe, with few exceptions, the principles of refugee law, including the fundamental principle of non-refoulement, ensuring access, where required, for asylum-seekers to procedures for determining refugee status and providing asylum to millions of persons in need of international protection. Renewed respect for the principle of non-refoulement has been demonstrated in the recommendations of regional bodies concerning the treatment of asylum-seekers, in new legislation in several countries and, concretely, by one government's shift from a policy of interdiction and involuntary return of asylum seekers to a policy of temporary refuge in the region.

6. Given the magnitude of the challenges at hand and the new tasks that UNHCR is called upon to perform, particularly in activities linked to the solution and prevention of refugee problems in countries of origin and areas affected by armed conflict, it is essential to adopt new approaches and strategies and to adapt the tools of the past to the needs of the present. In such circumstances, it is useful to re-examine the fundamental concept of international protection - what it means, whom we seek to protect and why - and to consider how the tools that have been used in the past can be adapted better to meet present and future needs. Last year's Note on International Protection (A/AC.96/815) highlighted several key issues

within the themes addressed by the 1992 internal UNHCR Working Group on International Protection, which had been the subject of the previous year's Note. It considered asylum as an instrument of international protection, the impact of recent trends on respect for protection principles, and UNHCR's efforts to foster the prevention and solution of refugee problems through the promotion of respect for human rights, activities on behalf of the internally displaced and persons affected by situations of armed conflict, and voluntary repatriation. The present Note continues this discussion, focusing on a central theme, the notion of international protection itself. It considers the need for international protection as a defining concept in determining that a particular class of persons - refugees - should be of special concern to the international community and included within the mandate and competence of UNHCR, and meeting the need for protection as the guiding principle for the action of the High Commissioner and of the international community on their behalf. The Note will examine, from this perspective, the adequacy of the legal tools available to ensure that protection is granted to those who need it, and what improvements can be envisaged. It also examines briefly some aspects of international protection relating to the prevention and solution of refugee problems in countries of origin and in areas of conflict which were dealt with at length in last year's Note and in the note on Protection Aspects of the Office's Activities on Behalf of Internally Displaced Persons (EC/SCP/87).

7. Part II examines the meaning of international protection, its evolution, content and the varied tools employed to provide it. Part III discusses the adequacy, and the limitations, of the legal tools available to meet refugees' need for international protection, while Part IV discusses how the gaps identified can be filled, or at least bridged, notably through the use of temporary protection and various forms of regional and international harmonization. Part V examines the connection between the concept of international protection and the Office's growing role in promoting solutions and prevention through activities on behalf of returnees, the displaced and other persons within their own countries.

II. THE CONCEPT OF INTERNATIONAL PROTECTION

A. The refugee's need for protection

8. Unlike most other people who leave their country, refugees seek admission to another country not out of choice but out of absolute necessity, to escape threats to their most fundamental human rights from which the authorities of their home country cannot or will not protect them. Left unprotected by their own Government, refugees must seek the protection that every human being requires from the authorities of a country of refuge and from the international community. It is this vital need for international protection that most clearly distinguishes refugees from other aliens.

9. The situation of refugees as uprooted foreigners, usually with scant material resources, often without documentation, deprived not only of the protection of a Government but also of the traditional protective structures of family, clan and community, makes them vulnerable in many ways. The position of refugee women and of children separated from their families is particularly precarious. Already threatened by violence or human rights abuses in their own country, refugees may

face further danger en route to a country of refuge, compounded by the risk of being turned back at (or before reaching) its borders. Even after gaining admission to another country, the refugee may face the problems of violence, criminality, abuse of power and intolerance that are present to varying degrees in all countries, but to which the destitute undocumented alien is all the more exposed. He or she thus needs personal security, including protection from being sent to a place where his or her life or freedom would be endangered. To survive in the country of asylum, the refugee also needs to have some means of subsistence, as well as shelter, health care and other basic necessities. This entails obtaining some form of recognized legal status, providing authorization to work, or at least access to humanitarian assistance, social benefits, and documentation. Beyond what is required for immediate survival, refugees need respect for the other fundamental human rights to which all individuals are entitled without discrimination. Finally, every refugee needs a long term solution that will enable him or her to be integrated into society and to lead a normal life as a full-fledged member of a national community.

10. When the United Nations General Assembly adopted the general refugee definition that was to be used in the UNHCR Statute and, with certain changes, in the 1951 Convention, it decided to move beyond earlier ad hoc definitions, based on specific situations, towards a more universally applicable definition. In the nearly identical formulations employed in the UNHCR Statute and in the 1951 Convention, the lack of national protection is at the core of the concept of refugee. In these instruments, a refugee is a person who is outside his or her country "owing to a well-founded fear of being persecuted" for specified reasons and who "is unable or, because of such fear, is unwilling to avail himself of the protection of his country of his nationality, or, if he has no nationality, to return to the country of his former habitual residence."[1] While the risk of persecution clearly involves an absence of effective protection, the second part of the phrase makes a present inability to obtain the protection of one's home country an explicit element of the refugee definition. (For a stateless person, inability to return coupled with a well-founded fear of persecution establish a need for international protection as a refugee.)

11. As the need for protection characterizes the plight of refugees and is key to their identification as persons of concern to UNHCR and to the international community, providing that protection is at the centre of UNHCR's mandate. When the United Nations decided in 1949 to establish UNHCR, the General Assembly explicitly recognized "the responsibility of the United Nations for the international protection of refugees," (General Assembly res.319(IV), (3 December 1949)). (The term "international protection of refugees" was introduced for the first time in the Economic and Social Council (ECOSOC) and General Assembly resolutions on the establishment of the Office.[2]) The overall objective of international protection

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[1] Statute of the Office of the United Nations High Commissioner for Refugees (UNHCR Statute), para. 6A(ii) and 6B. See 1951 Convention, Art. 1A(2).

[2] ECOSOC Resolution 248(IX)A (6 August 1949); General Assembly resolution 319(IV) A (3 December 1949). See Holborn, L., Refugees, a Problem of Our Time, The Scarecrow Press, Metuchen, NJ, USA, 1975, p. 99 and n. 9.

is summarized in the Preamble to the 1951 Convention: "to assure refugees the widest possible exercise of ... fundamental rights and freedoms" which all "human beings [should] enjoy ... without discrimination". International protection is thus premised on human rights principles. From this human rights perspective, the reason for the United Nations (meaning, in this context, not merely the institution but the community of nations assembled within it) to assume responsibility for the international protection of refugees seems clear: fundamental rights and freedoms are normally secured for the individual by his or her Government. Since refugees do not enjoy the effective protection of their own Government, this normal remedy is unavailable, and it falls to the international community as a whole to provide the "international" protection necessary to secure to refugees the enjoyment of these rights.

B. The content of international protection

12. Given the broad scope of the overall objective of international protection, it is appropriate that the UNHCR Statute describes the protection function of the High Commissioner as encompassing virtually all the activities undertaken by her Office on behalf of refugees.[3] As outlined in general terms in the Statute of the Office and demonstrated in the practice of UNHCR, international protection involves seeking - in collaboration with Governments as well as non-governmental organizations (NGOs) - to meet the whole range of needs that result from the absence of national protection described in paragraph 10 above. International protection thus begins with securing admission, asylum, and respect for basic human rights, including the principle of non-refoulement, without which the safety and even survival of the refugee is in jeopardy; it ends only with the attainment of a durable solution, ideally through the restoration of protection by the refugee's own country. It includes promoting the conclusion and supervising the application of international conventions for the protection of refugees at the global and regional level,[4] promoting legislation and other measures at the national - and increasingly, regional - level to ensure that refugees are identified and accorded an appropriate status and standard of treatment in their countries of asylum, and ensuring, with and through the national authorities, the safety and well-being of specific refugee groups and individuals in asylum countries. Protection includes ensuring that the special needs of refugee women, particularly victims of violence, and of children, especially those separated from their families, are met. Since the ultimate goal of international protection must be to achieve a satisfactory solution for the refugee, the protection function also includes promoting with governments and with other United Nations and international bodies measures to remove or attenuate the causes of refugee flight so as to establish conditions that would permit refugees to return safely to their homes, and, when this becomes feasible, facilitating, assisting and monitoring the safety of voluntary repatriation. If safe return is not possible, it involves promoting and implementing the other durable solutions of resettlement or local integration.

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[3] UNHCR Statute, paragraph 8.

[4] See UNHCR Statute, para. 8(a); cf. 1951 Convention relating to the Status of Refugees, Article 35(1); and 1967 Protocol relating to the Status of Refugees, Article II(1).

13. Since sovereign States have the primary responsibility for respecting and ensuring the fundamental rights of everyone within their territory and subject to their jurisdiction[5], effective protection of refugees requires action by the Government of the country of asylum on their behalf. UNHCR's role in providing international protection consequently, and above all, involves ensuring that Governments take the necessary action to protect all refugees within their territory, as well as persons seeking admission at their borders who may be refugees. The fulfilment of the High Commissioner's international protection function requires the active cooperation and support of the Government concerned, and the support of the other countries of the international community.

C. The tools of international protection

14. The tools of international protection range from the legal and diplomatic to the material and practical, from international conventions to national legislation, to diplomatic démarches to secure asylum for individual refugees threatened with refoulement, to such concrete measures as arranging basic food rations, clean water, and even planting defensive thornbush hedges around refugee settlements. Presence in the field and unhindered access to refugees (including asylum-seekers whose refugee status has not been determined) by UNHCR and others responsible for their protection have proved to be "tools" of crucial importance which are an indispensible complement to protection activities in the legal and political domains. Practical protection in the field requires close working relationships with government officials at all levels, particularly those in direct contact with refugees. Since material assistance is often essential for refugees' survival, it can also be a sine qua non of international protection. Other tools of international protection include emergency resettlement to third countries - or assistance with return home - when refugees are at risk or otherwise unable to remain in their country of refuge; public information to promote understanding of the problems of refugees and thus generate support for generous refugee policies; information systems and networks to provide accurate and timely information on countries of origin, so as to ensure that persons in need of protection are correctly identified and to avoid misuse of asylum procedures; teaching and other promotion activities, to foster understanding of the problems and needs of refugees and of the principles of refugee law; training for refugee status determination officials, camp administrators, border guards, NGO staff and UNHCR personnel; counselling for individual refugees and asylum seekers; and the formulation and dissemination of guidelines for meeting the practical protection needs of specific categories of refugees, such as children and women; registration, documentation, family tracing and appropriate care arrangements for children separated from their families; and special programmes for women and other refugees who are victims of violence. The tools of protection may be utilized both by UNHCR and by national authorities responsible for refugees, as well as by NGOs, which in many countries play an accepted and valuable role in refugee protection.

15. Although the term "legal and political protection" clearly no longer suffices to convey the full scope of international protection, international legal

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[5] See International Covenant on Civil and Political Rights, Article 2 (1).

instruments, as well as internationally accepted principles and norms expressed, inter alia, in General Assembly resolutions, the Conclusions of the UNHCR Executive Committee, judicial decisions and scholarly opinion, are vital tools for the protection of refugees. The international system for the protection of refugees has as its central legal elements the 1951 United Nations Convention and the 1967 Protocol relating to the Status of Refugees. (The accession of Tajikistan and Dominica and the succession of The former Yugoslav Republic of Macedonia brings to 127 the number of States that are parties to one or both of these instruments.) These are the only universal instruments, and the clearest expression of international solidarity, for the protection of refugees. The provisions of the Convention remain the standard against which any measures for the protection and treatment of refugees are judged. Its most important provision, the principle of non-refoulement contained in Article 33, is the cornerstone of international protection. UNHCR plays a central role in this international framework, with responsibility under its Statute for promoting and supervising the application of international conventions for the protection of refugees, with the corresponding responsibility of States Parties, under Article 35 of the Convention and Article II(1) of the Protocol, to cooperate with the Office in the exercise of its functions.

16. The 1951 Convention and the 1967 Protocol are complemented by regional refugee instruments, notably the 1969 OAU Convention governing the specific aspects of refugee problems in Africa and, for Latin America, the 1984 Cartagena Declaration. The system has been further reinforced by a growing corpus of national law relating to the admission, recognition and protection of refugees. International and regional human rights instruments and international humanitarian law are invaluable additional legal tools of international protection.

17. As UNHCR increasingly finds itself called upon to provide protection and humanitarian assistance in or close to areas of armed conflict and in countries of origin, new challenges emerge which call for the development of new tools of protection. These include humanitarian diplomacy at both the national and local level, closer coordination with the political organs of the United Nations as well as regional organizations, closer working relationships with the military both in the context of peace-keeping or peacemaking operations, logistical support for humanitarian assistance, and the physical protection of refugees and displaced persons, and intensified cooperation with the International Committee of the Red Cross and with human rights monitoring teams. In conflict situations the 1949 Geneva Protocol relative to the Protection of Civilian Persons in Time of War and the Additional Protocols of 1977 assume particular importance among the legal tools available. Where the Office is involved in protection and assistance activities on behalf of people in their own countries, refugee law as such does not apply. National law and international human rights and humanitarian law are the basic legal tools of protection.

18. In countries of origin as in countries of asylum, laws can serve as guiding principles and as tools for protection, but to achieve their objective they must be respected and enforced. This requires that Governments have both the political will and the means to implement them. Where Governments lack the means to protect refugees or their own citizens, they need to receive the assistance of the international community to enable them to do so. In many of the most difficult situations now confronting UNHCR, the problem of enforcement of recognized legal

and humanitarian principles is critical. The removal of armed elements from refugee camps, the prevention of attacks, intimidation and harassment of refugees and returnees by outsiders and also by members of their own national or ethnic group, the clear separation of refugees from persons who do not qualify for or deserve international protection, and the implementation of humanitarian law are among the urgent tasks that must be accomplished to ensure the protection and welfare of refugees, as well as of local populations, and to facilitate the solution of voluntary repatriation. The fulfilment of the High Commissioner's international protection mandate in these situations requires cooperation with governments and other agencies and organs of the United Nations system and of the international community generally, acting under their own complementary mandates in the political and legal as well as the humanitarian spheres.

III. MEETING THE NEED FOR INTERNATIONAL PROTECTION: THE ADEQUACY OF THE AVAILABLE LEGAL TOOLS

19. One of the major issues faced by UNHCR in providing international protection is the question of the adequacy of the tools, particularly the legal tools, that are available to accomplish the task. To what extent are there gaps between the coverage of international instruments and the categories of people actually in need of international protection? To the extent that there are gaps, what should, and what can, be done to fill them?

A. The relevance and limitations of the 1951 Convention and the 1967 Protocol

20. Over the forty years since it entered into force, the 1951 Convention, complemented by the 1967 Protocol, has proved sufficiently flexible to afford international protection to refugees fleeing a wide variety of threats to their lives and fundamental rights in their countries of origin. These instruments continue to provide a firm legal basis for ensuring the protection of individual refugees escaping from oppressive regimes of every persuasion, as well as groups fleeing the turmoil that often accompanies changes, or attempted changes, in undemocratic systems of government. Indeed, in the post Cold War era, as internal conflicts involving oppression on ethnic and religious, as well as political grounds seem to become more frequent and generate major refugee flows, the continuing relevance of the grounds for refugee status contained in 1951 Convention definition is evident.

21. Despite the direct relevance of the 1951 Convention and the 1967 Protocol to many, perhaps most, contemporary refugee situations, the categories of persons whom States accept as "refugees" under these instruments, and their corresponding national legislation and jurisprudence, do not include all those who are acknowledged by the international community, and often by these same Governments, as requiring international protection because of the danger they face in their home country. The discrepancies between refugees recognized under the 1951 Convention and the wider group of persons in need of international protection arise in part from the way in which the definition of "refugee" in the 1951 Convention has been interpreted by some States, in part from the way the Convention together with the 1967 Protocol has been applied, and in part from limitations inherent in the instruments themselves. A further limitation to the effective coverage of the Refugee Convention and Protocol results from the fact that some States, including

some major countries of asylum, have not so far acceded to them, or continue to maintain the geographical limitation to refugees from Europe. The following paragraphs will examine the nature of these "gaps" within the effective reach of these key legal instruments, and what has or could be done to bridge them.

1. Varying interpretations of the refugee definition

22. Most States concur with UNHCR that the Convention and Protocol apply to refugees from civil wars who have good reason to fear being victimized because of their religion, ethnic origin, clan or imputed political opinion. Many States also agree that persecution within the meaning of the 1951 Convention may emanate not only from the Government but also from de facto authorities or from other groups in situations where the national Government is either unwilling or unable in practice to provide the persons concerned with protection that would enable them safely to remain within, or to return to, their country. In some countries, however, the competent authorities, including administrative or judicial tribunals, have interpreted the terms of the refugee definition - in particular the words "a well-founded fear of being persecuted" - as requiring either a threat of persecution by the legal Government or the deliberate denial of protection by that Government to the individual concerned. Some authorities contend, moreover, that persons fleeing armed conflict cannot qualify as refugees under the 1951 Convention unless they are "singled out" for treatment different from that awaiting other members of their community. As a result, refugees fleeing ethnic or religious persecution by de facto authorities controlling a part of their country of origin, in the midst of a civil war in which it is effectively impossible for them to find safety elsewhere in their country, have been rejected as refugees under the Convention and Protocol in certain countries. (However, once admitted, they are almost always authorized to remain temporarily for humanitarian reasons.) In neighbouring countries, other "war refugees" in identical circumstances have been accepted as 1951 Convention refugees.

23. Since this particular problem of disparities in protection coverage begins, in a sense, with the definition of "refugee" in the 1951 Convention itself, as well as with the very similar definition, adopted some months earlier, in the UNHCR Statute, it is useful at this point briefly to consider certain aspects of the drafting history of these instruments. It is clear from the travaux préparatoires that the basic refugee definition adopted was intended and understood by the drafters to cover all those who were currently in need of international protection. With respect to the Convention, which defines the responsibilities of individual States, the representatives of States participating in the drafting were however careful to limit the future legal obligations of their countries by including a date line (refugees had to be such "as a result of events occuring before 1 January 1951") and an optional geographical limitation (to refugees "as a result of events occuring in Europe"). No such limitation was placed on the mandate and competence of the High Commissioner, or thus on the responsibility of the United Nations as a whole, which also extended to refugees who might be forced to flee as a result of events occuring after 1 January 1951. Hence there was from the outset a disparity between the categories of persons to whom the High Commissioner was given the obligation to provide international protection on behalf of the United Nations, and the legal obligations accepted by the individual member States. This situation

prevailed formally until the adoption of the 1967 Protocol removing the date line, and until the withdrawal of the geographical limitation by the vast majority of States parties to the two instruments.

24. It is noteworthy that efforts to limit the future obligations of States Parties to the Refugee Convention towards persons in need of protection (a) were confined to the inclusion of the date line and the geographical limitation, (b) were based on concern about signing a "blank cheque" for unforeseeable numbers of future refugees, and (c) that this concern was finally put to rest, in the light of experience, with the adoption of the 1967 Protocol and the lifting by all but a few States of the geographical limitation. With regard to the basic definition of the refugee, it was assumed by the drafters of the Convention and of the UNHCR Statute, including those pressing for a generous and universal coverage of both present and future refugees (or of "unprotected persons", as one delegation proposed), and with virtually no recorded debate, that the concept of refugee status based on a well-founded fear of persecution was adequate to cover all those in need of international protection owing to a rupture with their country of origin. The definition was meant to distinguish persons who could not safely return to or obtain the protection of their country because of the political situation there - refugees - from others (including those stateless persons who were not also refugees) who did not require international protection. There is no indication of any intention to single out a special class of refugees as more deserving of protection than others. The "broad definition" adopted was understood to cover "all legitimate refugees".[6]

25. As has already been mentioned, the 1951 Convention is explicitly predicated on "the principle that human beings shall enjoy fundamental rights and freedoms without discrimination" and the concern of the international community, assembled in the United Nations, "to assure refugees the widest possible exercise of these fundamental rights and freedoms". (Preamble, first and second paragraphs.) The Convention was conceived as a measure "to extend the scope of and the protection accorded by" previous international agreements concerning refugees (idem, third paragraph). The Conference of Plenipotentiaries convened by the General Assembly to complete the drafting of, and to sign the Convention expressed, moreover, "the hope that the Convention ... will have value as an example exceeding its contractual scope and that all nations will be guided by it in granting in so far as possible to persons in their territory as refugees, and who would not be covered by the terms of the Convention," [i.e., because of the date line and the geographical limitation], "the treatment for which it provides." (Final Act of the 1951 United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, recommendation E.) It seems clear from the records of the drafting and from the historical context that the Convention's provisions were

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[6] See, for example, Minutes of the 327th Meeting, Economic and Social Council, Ninth Session, 8 August 1949, E/OR (IX), pp. 634-648; ECOSOC Resolution 248 B (IX) of 8 August 1949; and Summary Record of the second through sixth meetings of the Ad Hoc Committee on Statelessness and Other Problems, E/AC.32/SR.2-6; Memorandum of the Secretary-General [to the Fifth Plenary Session of the General Assembly], transmitting, inter alia, the definition of the term "refugee" from the draft Convention relating to the Status of Refugees), 22 September 1950, UN Doc. A/1385, para. 9. See also Holborn, op. cit., pp. 76-82.

intended to be given an interpretation consistent with the generous spirit in which they were conceived. For UNHCR, which participated in the drafting of the 1951 Convention as well as the 1967 Protocol, it has always been understood that the basic definition of refugee was meant to have an inclusive meaning, rather than a restrictive one, in accordance with the fundamental objective of providing international protection to all who need it.

2. The applicability of the 1951 Convention and the 1967 Protocol in situations of mass influx

26. One of the issues relating to the adequacy of the present legal tools to meet protection needs is the question of the suitability of the Convention and Protocol for dealing with situations of large-scale influx of refugees, particularly where the appropriate long-term solution is considered to be voluntary repatriation. There are at least three aspects to this question: whether the persons concerned are "refugees" as defined in the Convention; the possible burden on procedures for the determination of refugee status; and the appropriateness of the treatment provided for in the 1951 Convention when the expected durable solution is not integration but repatriation. The first question was partially addressed in the preceding paragraphs, and is further discussed in section B, below, on the protection of persons outside the effective scope of the 1951 Convention and the 1967 Protocol. The answers to the last two questions remain the subject of debate, but it would appear that any inadequacies of the 1951 Convention regime in such situations stem more from the way in which the Convention has been applied than from its actual provisions.

27. With respect to refugee status determination, there is nothing in the Convention's provisions to preclude positive group determination or determination on a prima facie basis, subject to subsequent review. A number of countries have resorted to group determination where the refugee status of the persons concerned seemed evident on objective grounds. When circumstances in the country of origin are such that any reasonable person from a particular group would fear persecution, the "subjective element" of the refugee definition (i.e., "fear") can be presumed. If group determination is not considered appropriate, the recent experience of several countries demonstrates that individual refugee status determination can be feasible, albeit at some expense, even in situations of large-scale influx. The numbers of individual asylum-seekers dealt with in recent years by the determination authorities of some of the major asylum countries, which are equivalent to a large-scale influx by almost any standards, also demonstrate this capacity.

28. The suitability of 1951 Convention standards of treatment in mass influx situations where it is anticipated that return home in safety will become feasible in the near future is a more complex issue. Apart from the matter of whether the persons concerned are considered to meet the refugee definition, the question arises whether the treatment for which the Convention provides will have the effect of discouraging their eventual repatriation. Although refugee status under the 1951 Convention is always provisional, in the sense that the Convention ceases to apply if the circumstances which gave rise to refugee status cease to exist (Art. 1 C (5) and (6)), many of the provisions in Chapters III, IV and V of the Convention, relating to employment, welfare and administative measures, clearly help to facilitate refugees' integration in their country of asylum. The generous

treatment accorded by many States, with the encouragement of UNHCR, to refugees recognized under the Convention is such that some of those States have expressed concern about extending these benefits to refugees in situations of large-scale influx lest they be deterred from from repatriating when this becomes feasible.

29. Upon close analysis, however, the Convention itself would not appear to exclude the possibility of reorienting programmes for refugees admitted on a temporary basis towards their eventual return when conditions permit, rather than towards full integration in the asylum country. The benefits provided under the various articles of the Convention have different levels of applicability depending on the nature of the refugee's sojourn or residence in the country: the most fundamental rights (Articles 3 and 33), and some others (see, e.g., Arts. 7(1),8,13) are extended to all refugees; other basic rights are applicable to any refugee present "within" the country (e.g. Arts. 2,4,20,22,27), even illegally (see Art. 31); other provisions apply to refugees "lawfully in" the country (Arts.18,26 and 32); while certain of the more generous benefits are to be accorded "to refugees lawfully staying [résidant régulièrement] in [the] territory" of the country concerned (Arts.15,17,19, 21,23,24 and 28; see also Arts.14,16(2) and 25). The drafting history shows that the English term "lawfully staying" is based on the French, and that a distinction was intended between basic rights accorded to all refugees and other rights and benefits accorded to those accepted as legal residents.[7] Although these gradations in treatment allowed by the Convention have not generally been explored, they would appear to be consistent with temporary protection, which would include admission, humane treatment and respect for basic rights, including non-refoulement, but would not give refugees whose stay was expected to be of short duration the full range of integration-oriented benefits accorded to those for whom asylum was also seen as the durable solution. Temporary protection is discussed in detail in Part IV B.

B. Legal aspects of the international protection of refugees who are not covered by the 1951 Convention and the 1967 Protocol

30. The lack of a complete correspondence between the categories of persons covered by the 1951 Convention and the 1967 Protocol and the broader class of persons in need of international protection is not simply a matter of a broad or narrow interpretation of the elements of the refugee definition, nor of the difficulty of applying the 1951 Convention in situations of large-scale influx. However liberally its terms are applied, some refugees fleeing the civil wars and other forms of armed conflict that are the most frequent immediate causes of refugee flight fall outside the letter of the Convention. Although many refugees from armed conflict do have reason to fear some form of persecution on ethnic, religious, social or political grounds at the hands of one or more of the parties to a conflict, others typically are fleeing the indiscriminate effects of armed conflict and the accompanying disorder, including the destruction of homes, harvests, food stocks and the means of subsistence, with no specific element of "persecution". While it is clear that such victims of conflict require

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[7] See Goodwin-Gill, G.S., The Refugee in International Law (Oxford, 1983), pp. 160-162. See also Grahl-Mahdsen, The Status of Refugees in International Law (Leyden, 1966), pp.350-355.

international protection, including asylum on at least a temporary basis, they clearly do not fit within the literal terms of the 1951 Convention refugee definition as it has been generally applied for the past forty years. States and UNHCR, recognizing that such refugees from armed conflict are also in need, and deserving, of international protection and humanitarian assistance, have adopted a variety of solutions to ensure that they receive both. Efforts to bridge the gap between the need for international protection and the principal international instruments available to provide it have involved a broadened UNHCR mandate combined with reliance on regional instruments, other international instruments, customary international law, and ad hoc arrangements relying on the humanitarian policies of Governments.

1. The broadening of the High Commissioner's competence

31. With respect to the mandate of UNHCR, successive General Assembly resolutions have had the effect of extending the High Commissioner's competence to refugees fleeing armed conflict. Using a variety of formulations, the General Assembly has regularly called upon the High Commissioner "to continue his assistance and protection activities in favour of refugees within his mandate as well as for those to whom he extends his good offices or is called upon to assist in accordance with relevant resolutions of the General Assembly".[8] In accordance with these resolutions, and with the strong support of the Executive Committee and of the international community as a whole, it has been the regular and consistent policy and practice of UNHCR to provide international protection, mobilize humanitarian assistance and seek solutions for refugees from armed conflicts as well as those fleeing persecution.

32. It will be seen that the terminology employed for refugees who may not come within the terms of the 1951 Convention definition (and that in the UNHCR Statute) in neither consistent nor clear. The term "displaced persons" has been used ambiguously for people displaced within and outside their country of origin; "persons of concern" connotes nothing of the plight of refugees, and could refer to non-refugees of concern to the Office, such as returnees, asylum-seekers generally (because they *may* be refugees), and persons within their own country to whom the Office is requested to extend protection and assistance. In order to avoid these ambiguities and to convey clearly to the lay person the reality of coerced flight from one's country, the Office has in recent years adopted the usage of regional instruments such as the OAU Refugee Convention and the Cartagena Declaration, using the term "refugee" in the broader sense, to denote persons outside their countries who are in need of international protection because of a serious threat to their life, liberty or security of person in their country of origin as a result of persecution or armed conflict, or serious public disorder.

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[8] GA res. 3143 (XXVIII), 14 Dec.1973. Other resolutions refer, e.g., to "refugees for whom [the High Commissioner] lends his good offices" (GA Res.1673 (XVI), 18 Dec. 1961; "refugees who are of [the High Commissioner's] concern" (GA res. 2294 (XXII), 11 Dec 1967; "refugees and displaced persons, victims of man-made disasters" (ECOSOC Res. 2011(LXI), 2 Aug.1976, endorsed by GA res. 31/55 of 30 Nov. 1976; "refugees and displaced persons of concern to the Office of the High Commissioner" (GA res.36/125, 14 Dec.1981); "refugees and externally displaced persons" (GA res. 44/150, 15 Dec. 1988; "refugees and other persons to whom the High Commissioner's Office is called upon to provide assistance and protection" (GA res. 48/118, 20 Dec.1993).

2. Regional refugee instruments

33. In Africa, the need for an expanded refugee definition became apparent soon after the adoption of the 1951 Convention, in connection with persons who became refugees as a result of the process of decolonization, the struggle for national liberation and the creation of new States. The 1 January 1951 date line reduced the usefulness of the 1951 Convention in this context (until the adoption of the 1967 Protocol), and the reference to a well-founded fear of persecution, which was thought to imply individual determination of refugee status, was difficult to apply owing to the cost of individual procedures as well as the absence of established administrative mechanisms for this purpose. The 1951 Convention definition also seemed inappropriate in connection with large-scale movements of refugees from armed conflict, where subjective individual motivations appeared less relevant than the immediate objective need for assistance and protection. The willingness of neighbouring States to provide asylum was normally not at issue, and assistance and protection were provided, with UNHCR operating under its "good offices" concept, until the adoption in 1969 of the OAU Convention relative to the Specific Aspects of Refugee Problems in Africa.

34. The 1969 OAU Refugee Convention adopted a two-part definition of refugee, including the 1951 Convention/UNHCR Statute definition as the first part and adding:

> The term refugee shall apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

The United Nations General Assembly has endorsed the recommendations adopted by the Arusha Conference on the Situation of Refugees in Africa, which recognized the OAU definitions as the basis for determining refugee status in Africa and recommended that "the 1969 OAU Refugee Convention, the regional complement in Africa of the 1951 Convention..., be applied by the United Nations and all its organs as well as by non-governmental organizations dealing with refugee problems in Africa... ."[9]

35. The OAU Refugee Convention, which was adopted 25 years ago and has now been in force for 20 years, in many respects provides a model for the provision of international protection to all refugees, whether they are fleeing armed conflict, civil strife, persecution, or, as is often the case, a combination of these. The use of objective criteria facilitates the recognition of refugee status on a prima facie basis in the case of large refugee flows, a practice that is not inconsistent in theory with the 1951 Convention, but which is at variance with the highly individualized manner in which the latter instrument has normally been applied by States Parties. Such criteria also avoid the potential inter-State frictions that

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[9] GA res. 34/61 on the Situation of Refugees in Africa (29 Nov. 1979), para. 1. Recommendations from the Pan-African Conference on the Situation of Refugees in Africa, Arusha, Tanzania, 7-17 May 1979, Recommendations 2(1) and 7(5). (UNHCR, 1984)

result from the perception that recognition of refugee status under the 1951 Convention implies criticism of the authorities of the country of origin.

36. In Latin America, the American Convention on Human Rights, the "Pact of San José, Costa Rica", to which 24 Latin American and Caribbean States are parties, contains a provision against refoulement which, besides covering refugees under the 1951 Convention and the 1967 Protocol, could apply in certain situations to persons not covered by these instruments. Closer in scope to the OAU Refugee Convention, however, is the Cartagena Declaration, which was adopted by a group of experts and representatives from Governments at the Colloquium on the International Protection of Refugees in Central America, Mexico and Panama held in Cartagena, Colombia, on 19-22 November 1984. Building on the precedent provided by the OAU Convention and on the work of the Inter-American Commission on Human Rights, the Declaration recommends the use in the region of a "definition or concept of refugee ... which, in addition to containing the elements of the 1951 Convention and the 1967 Protocol, includes among refugees persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order." Although the Declaration itself is not a binding legal instrument, it has repeatedly been endorsed by the General Assembly of the Organization of American States (OAS), which has called upon OAS member States to implement its provisions with respect to refugees on their territories.[10] The Cartagena Declaration, the tenth anniversary of which is being commemorated this year, has come to be accepted as providing the conceptual framework for refugee protection policy not only in Central America but in Latin America generally and has been incorporated into the national legislation of several Latin American States.

37. Unlike the 1951 Convention, the OAU Refugee Convention and the Cartagena Declaration both refer explicitly to voluntary repatriation. The OAU Convention provides that "[t]he essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will." (Art. V) It also spells out in some detail the conditions and mechanisms of repatriation. The Cartagena Declaration "reiterates the voluntary and individual character of repatriation and the need for it to take place in conditions of complete safety, preferably to the refugee's place of residence in the country of origin." (Conclusion Twelve)

3. International protection where international refugee instruments do not apply

38. Another important category of refugees who do not benefit from the formal protection of Convention and Protocol consists of those who seek refuge in countries that are not parties to those instruments, or have maintained the geographical limitation. In certain regions, particularly in West, South and South-East Asia, as well as in a few countries in the Americas, States have provided asylum at least on a temporary basis to large numbers of refugees, often

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[10] See OAS General Assembly, XV Regular Session (1985), Resolution approved by the General Commission at its fifth session held on 7 December 1985.

for more than a decade, without becoming parties to any of the relevant international instruments. Most of the countries concerned have repeatedly both reaffirmed and demonstrated their support for basic protection principles, especially the principle of non-refoulement, recognizing at least implicitly its normative character. Most of these States recognize and welcome the High Commissioner's international protection role and have cooperated fully with UNHCR. In view of the very generous asylum policies of several of these countries it would appear difficult to defend as a general rule that action consistent with international protection principles is more likely in a country that is a party to the Refugee Convention and Protocol than in one that is not. There is however a tendency, in States that are not parties to any international refugee instrument, for refugees from certain countries to be accepted on a prima facie basis, while others are, at best, merely tolerated at the request of UNHCR, based on recognition by the Office under its mandate. Moreover the inapplicability of any binding international instrument means that the protection of refugees is dependent on the policy and goodwill of particular Governments, with the attendant uncertainty and the risk of a changed policy if a new Government has less respect for the High Commissioner's international protection function and for international norms for the protection of refugees. UNHCR accordingly continues to encourage the States concerned to accede to the 1951 Convention and the 1967 Protocol and to consider the usefulness of regional refugee instruments for promoting coordinated regional approaches to refugee problems on the basis of international cooperation and burden-sharing.

4. Ensuring international protection for all who need it in other regions

39. In European and other Western countries, no international regional instruments exist specifically for the protection of refugees from conflict who do not otherwise come within the terms of the 1951 Convention and the 1967 Protocol. It is nonetheless the practice of the great majority of these States to offer some form of protection to persons whose life or freedom would be at risk as a result of armed conflict or generalized violence if they were returned involuntarily to their countries of origin. Although they are not usually deemed to qualify as "refugees", or formally granted asylum within the terms of national legislation, a kind of provisional asylum is in fact granted through a wide variety of legislative, judicial and administrative measures. These have included such arrangements as "extended voluntary departure" and "temporary protected status" in one country, the "designated class" in another, and in others the so-called "B-status" for persons not recognized as refugees under legislation based upon the 1951 Convention but for whom compelling humanitarian reasons militate against return to the country of origin, "temporary leave to remain", residence permits granted on compassionate grounds or, at the very minimum, "tolerance" or temporary suspension of deportation. Several States have enacted, and a few are considering, special legislation pertaining to refugees fleeing armed conflict or instituting the practice of "temporary protection".

40. The need to provide international protection to persons fleeing armed conflict and civil strife, whether or not they come within the terms of the 1951 Convention definition, is generally accepted in practice by States as a humanitarian responsibility. The protection accorded in these countries to persons who are not deemed to be refugees under the 1951 Convention is normally granted as

a sovereign humanitarian act, or as a duty under national law (including constitutional provisions), without reference to international legal obligations. It should be noted however that many of these countries are parties to other international instruments that could be invoked in certain circumstances against the return of some non-Convention refugees to a place where their lives, freedom or other fundamental rights would in jeopardy. The 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment, to which 82 States are parties, provides (in Art. 3) that "No State Party shall expel, return (refouler) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." The European Convention for the Protection of Human Rights and Fundamental Freedoms has been interpreted by the European Court of Human Rights as implicitly prohibiting the return of anyone to a place where they would face a "real and substantiated" risk of ill-treatment in breach of the prohibition in Article 3 of torture or inhuman or degrading treatment or punishment. Although these instruments do not provide protection against refoulement as broad as that provided in Africa by the OAU Refugee Convention, they do give rise to international obligations towards some persons in need of international protection who would not come within the terms of the 1951 Convention.

41. While the practice of granting temporary refuge, or asylum on a temporary basis, to refugees has often been employed in situations of large-scale influx in various regions, UNHCR first formally recommended the granting of "temporary protection" to persons fleeing the conflict and human rights abuses in the former Yugoslavia. In that context, temporary protection has provided a framework for concerted action by the international community, using a variety approaches depending on each country's legislation and administrative system, to extend international protection to persons who clearly needed it, without initially examining whether they qualified as "refugees" under applicable international instruments - the 1951 Convention and the 1967 Protocol - or under national laws. Subsequently several countries have introduced or adapted some of the elements of temporary protection in connection with refugees from other regions. Since the basic elements of temporary protection may show the way to providing international protection in situations where the 1951 Convention and the 1967 Protocol do not fully meet the need, they are discussed in detail in Part IV.

5. Gaps in the present international protection system for refugees

42. Efforts to bridge the gap between the need for international protection of refugees and the legal tools available to provide it, including regional instruments, customary international law, and ad hoc arrangements relying on the humanitarian policies of most Governments, have in practice yielded considerable success. The OAU Refugee Convention, in particular, has placed the international protection of refugees, in the broad sense, on a firm legal footing in Africa. Despite its non-binding character, the Cartagena Declaration has contributed to the development and acceptance of customary regional norms for the protection of refugees fleeing conflicts in Latin America. Where there is no international legal framework for refugee protection, however, or where the existing framework does not include all those needing protection, asylum and protection depend on the continuing goodwill of Governments. Despite the generosity shown by most countries, such goodwill is not necessarily permanent or stable, and can be unduly swayed by the vagaries of public opinion. Moreover, protection based on the

complete discretion of Governments is often inconsistent; while millions of refugees from armed conflicts and civil disorders benefit from temporary asylum accorded ex gratia, many others are denied protection, often because of political or foreign policy considerations relating to their country of origin.

43. A gap in the protection available to refugees who are outside the framework of the 1951 Convention and the 1967 Protocol, and in regions where neither the OAU Convention nor the Cartagena Declaration are applicable, involves States' decisions to formally accord temporary refuge only to persons who were already in the country of refuge before a certain date, with no provision for admission of others fleeing the same situation after that date (although deportation may be suspended for new arrivals who actually manage to enter the country). In addition, measures adopted by States, particularly under multilateral or regional agreements, to cope with large numbers of asylum applications, including accelerated and "manifestly unfounded claim" procedures and sending applicants to "safe third country", often do not include safeguards applicable to refugees from armed conflict who do not also have a "well-founded fear of persecution" under the 1951 Convention. For example, some countries will return an asylum-seeker to a "first country of asylum" if they are satisfied that he or she will have access there to fair procedures for the determination of refugee status under the 1951 Convention. No inquiry is made whether a refugee from armed conflict, who does not also fear persecution, would be granted protection in that country. In order to ensure access to safety for all who need international protection, it is crucial that the safeguards that are attached to these and other measures, such as visa regulations, carrier sanctions and pre-departure checks, or to the issuance of visas in countries of origin, make due provision for people who are forced to flee their countries because of threats to life, liberty and personal security other than "persecution".

IV. BRIDGING THE GAPS IN INTERNATIONAL PROTECTION: HOW CAN INTERNATIONAL PROTECTION BE ENSURED FOR ALL WHO NEED IT?

A. Possible approaches

44. The international community, through the United Nations General Assembly and the Executive Committee, regularly calls upon the High Commissioner to extend protection and assistance to refugees from armed conflict and other "man-made disasters" as well as to those within the terms of the Statute of the Office. One of the critical challenges facing UNHCR is to find ways to guarantee effective international protection for all those who require it, whether or not they are within the scope of the treaty obligations of individual Governments. While regional legal instruments may appear to show the way, hopes of widening the scope of international instruments to cover refugees beyond those provided for in the 1951 Convention and the 1967 Protocol are confronted with the reluctance of many States to undertake internationally binding legal obligations towards refugees beyond those that they have already assumed. Besides the possibility of global or regional conventions for the protection of refugees in the broader sense, other options include an approach similar to the Cartagena Declaration but on a global basis, i.e. a declaration of guiding principles for international protection; similar regional declarations; regional harmonization processes recommending and leading to the adoption of parallel national legislation; coordinated, but ad hoc, international responses to specific refugee situations; or a more comprehensive,

global, but still not mutually binding approach. UNHCR believes that the concept of temporary protection should be a feature of whatever approach is adopted.

B. Temporary protection as a pragmatic tool for meeting the need for international protection of refugees, including those outside the scope of the 1951 Convention

45. UNHCR considers that the pragmatic approach adopted by the international community, in cooperation with UNHCR, in providing temporary protection to victims of the conflict and systematic human rights abuses in the former Yugoslavia, whether or not they were refugees under the 1951 Convention, brings together a number of elements that deserve consideration in connection with efforts to meet global protection needs. The aspects of temporary protection that may be relevant to meeting the need for international protection in a broader context include:

(i) its use as a tool to meet protection needs in mass outflows;

(ii) the definition of beneficiaries on the basis of the need for international protection;

(iii) the description of the basic elements of protection;

(iv) the focus on return as the most appropriate solution; and

(v) the provision of international protection as part of a comprehensive programme of concerted international action that includes prevention and solutions.

Each of these aspects is discussed in turn in the following paragraphs.

46. Meeting urgent protection needs in mass refugee flows: Temporary protection has served as a means, in situations of mass outflow, for providing refuge to groups or categories of persons recognized to be in need of international protection, without recourse, at least initially, to individual refugee status determination. It includes respect for basic human rights but, since it is conceived as an emergency protection measure of hopefully short duration, a more limited range of rights and benefits are offered in the initial stage than would customarily be accorded to refugees granted asylum under the 1951 Convention and the 1967 Protocol. In many respects it is a variation of the admission and temporary refuge based on prima facie or group determinations of the need for international protection that have been used frequently to deal with mass flows of refugees in other parts of the world. These have been the subject of discussions in the UNHCR Executive Committee Sub-Committee of the Whole on International Protection on the basis, inter alia, of the report of a Group of Experts on temporary refuge in situations of large-scale influx, which led to the adoption by the Executive Committee in 1981 of Conclusion No. 22 (XXXII) on the protection of asylum-seekers in such situations. In the situation in the former Yugoslavia, the value of temporary protection in affording protection to those who needed it without overburdening individual eligibility procedures appears to have been demonstrated, although several States subsequently proceeded to conduct individual determination.

47. The definition of beneficiaries on the basis of the need for international protection: With respect to refugees fleeing the conflict and human rights abuses in the former Yugoslavia, temporary protection was recommended for:

- persons who had fled from areas affected by conflict and violence;

- persons who had been or would be exposed to human rights abuses, including those belonging to groups compelled to leave their homes by campaigns of ethnic or religious persecution; and

- persons who for other reasons specific to their personal situation are presumed to be in need of protection.

In practice, the beneficiaries of temporary protection as so described would be the same as those covered in other regions by the OAU Refugee Convention or the Cartagena Declaration, and refugees granted asylum on a temporary basis in other regions without the benefit of any international legal instrument. States providing temporary protection have acted on the basis of a broad consensus on the need for international protection, without initially addressing the issue of whether those concerned were or were not refugees as defined in the 1951 Convention or any other legal instrument. Beneficiaries of temporary protection have in fact included both persons who clearly qualified as refugees under the Convention and others who might not.

48. The basic elements of temporary protection: The basic elements and standards of treatment agreed upon for the refugees benefiting from temporary protection approximate the minimum protection required by anyone in need of international protection. These include:

- admission to safety in the country of refuge;

- respect for basic human rights, with treatment in accordance with internationally recognized humanitarian standards such as those outlined in Conclusion 22 (XXXII) of the Executive Committee;

- protection against refoulement;

- repatriation when conditions in the country of origin allow.

49. The appropriate standards of treatment for refugees benefiting from temporary protection has been the subject of extensive discussion in the context of persons fleeing the conflict and human rights abuses in the former Yugoslavia. There was general agreement on the need for progressive improvements in standards beyond the minimum in Conclusion 22 (XXXII) when the period of temporary protection is prolonged. The actual levels of treatment depend on the reception capacity, the prevailing system of social benefits and the economic situation of the asylum country. Some national authorities contend that employment, educational opportunities and a certain measure of economic and social integration in the country of asylum are important for refugees' well-being, including their psychological and physical health, even when eventual voluntary repatriation is the expected long term solution. Since it is often impossible to predict with certainty when or even whether safe return will be possible, measures of partial

integration may also benefit the asylum country in the event that the refugees do become permanent residents. In accordance with the principle of non-discrimination, any substantial differences in the standards of treatment of different groups of refugees should be related to genuine differences in their situation, such as, for example, the reasonable expectation that the stay of a particular group in the country of refuge was expected to be of short duration.

50. Focus on return as the most appropriate solution: One of the principal reasons for applying the term "temporary" to protection given to persons fleeing conflicts or acute crises in their country of origin is the expectation - or at least the hope - that international efforts to resolve the crisis will, within a fairly short period, produce results that will enable the refugees to exercise their right to return home in safety. This focus on return as the most likely and appropriate solution to a particular refugee situation also provides the rationale for standards of treatment which emphasize the provisional aspect of the refugees' stay in the country of asylum, and minimize, at least in the initial stages, efforts to promote integration, which have traditionally been central to refugee reception policies in the countries concerned. Asylum is provided as a measure of protection, rather than as a durable solution. As the situation in Bosnia and Herzegovina shows, hopes for an early safe return are not always realized, and at a certain point the refugees' need for stability and greater certainty may call for standards of treatment more appropriate for a prolonged stay, and even eventual conversion to a more definitive status. (It has in fact been observed that the point at which countries of asylum find it necessary to regularize the situation of refugees admitted temporarily is often reached sooner than a resolution of the crisis that would permit safe return.) Up to, and even after, that point, temporary protection arrangements offer a means of ensuring protection for so long as it is needed while continuing to favour repatriation as the preferred solution. This focus on return must also include preparations and practical arrangements for repatriation, reintegration and rehabilitation in the country of origin when and if conditions permit. Temporary protection, like refugee status, should last as long as there remains a need for international protection (or until conversion to a more permanent status). If conditions in the country of origin change sufficiently for the better to make possible the refugees' return in safety and dignity, arrangements can be made, in consultation with UNHCR, for temporary protection to be phased out, ideally through voluntary repatriation.

51. Temporary protection as an element of a comprehensive approach: Temporary protection should be one component in a comprehensive approach, involving concerted efforts on the part of the international community to achieve a solution to the conflict that will enable those who have fled to return home in safety and dignity. It also implies burden sharing and international solidarity, including assistance, where required, to the countries most directly affected. In the case of the former Yugoslavia this has also included reception of refugees, particularly the most vulnerable, outside the immediately affected region. Temporary protection would make little sense as a strategy if it were divorced from efforts to address the causes and to attain solutions to the refugee problem. In this respect temporary protection represents one of the variable approaches to asylum that the High Commissioner has adopted as part of comprehensive approaches in other regions. While each such plan must be different, given the uniqueness of each situation, the notion that asylum may be granted initially on a temporary basis, while efforts to achieve a solution are pursued, has been a common feature. In any such

comprehensive approach, the coordination and leadership of UNHCR with respect to the refugee aspects, and the cooperation and support of countries of origin, countries of asylum and of the international community as a whole, are essential.

C. Consideration of the possible approaches

52. A new Convention: From the perspective of ensuring the international protection of those who require it, the option of an international instrument of global scope to complement the 1951 Convention and the 1967 Protocol, an OAU refugee Convention writ large, is most attractive. The argument in favour of ensuring protection through a binding international instrument was aptly presented by a delegate to the Ad hoc Committee convened in 1950 to draft a refugee convention:

> [I]f reliance were to be placed entirely on the good will of States, there would be no need for a convention. [However], should the good will be lacking in any one instance, the refugees concerned would have no legal rights they could press. It was for the committee to draft a convention endowing them with such rights; States could then demonstrate their good will by accepting the convention and observing its provisions."

53. However desirable new international instruments might be for the protection of such refugees, there seems to be little inclination on the part of States, despite their generous asylum practices, to incur further legal obligations in this domain. The large numbers of refugees granted asylum and of applicants for refugee status, and the burden that unfounded claims place on asylum procedures and reception facilities, as well as public apprehension of uncontrolled migration, undoubtedly contibute to this reluctance.

54. A declaration of guiding principles: If a new Convention seems for the present to be out of the question, an international declaration, or regional declarations, along the lines of the Cartagena Declaration would appear to be not only desirable but perhaps even a feasible option. Indeed, the many General Assembly resolutions and Executive Committee Conclusions that call upon the High Commissioner to continue to provide protection and assistance to persons of her concern have already demonstrated the broad consensus of the international community that refugees from armed conflict should receive international protection. An international declaration to this effect, calling upon all States to cooperate in extending such protection, would formalize this commitment and provide the High Commissioner with an additional basis for eliciting such cooperation. Like the Cartagena Declaration, an international declaration including guiding principles of international protection (including the need to provide protection on at least a temporary basis until a solution to the refugee problem was achieved) could in the best cases provide an inspiration for national legislation. While the global, trans-regional character of many contemporary refugee problems means that a statement of principles should be global in scope, the possibility of complementary regional declarations could also be considered.

" Summary record of remarks made by Mr. Louis Henkin, delegate of the United States of America, at the second meeting of the Ad Hoc Committee on Statelessness and Related Problems on 17 January 1950, E/AC.32/SR.2, page 9.

55. Regional harmonization: Harmonized regional approaches, of which the European Union offers the strongest example, are perhaps the most promising option for strengthening protection. As progress is made towards removing intra-regional barriers on the movement of persons and coordinating regional policies on the admission - and non-admission - of foreigners, including asylum-seekers, it is inevitable that national policies concerning the admission of persons in need of international protection should also be harmonized. To the extent that the recommendations of regional bodies lead to the adoption of national legislation in conformity with them, the practical effect can be virtually the same as a regional convention.

56. Concerted approaches in specific situations: The international response to the crisis in the former Yugoslavia and the earlier resonse to problems of refugees from Indo-China, which culminated eventually in the CPA, are two examples of concerted action by the international community, coordinated by UNHCR, which included measures to ensure that persons in need of international protection received it. Such major ad hoc efforts have been extremely effective in mobilizing international support on behalf of specific groups of refugees. Their effectiveness has depended in large measure, however, on the dramatic nature and the high public awareness of the specific crises, including sustained media attention. They do not by themselves provide a reliable model for ensuring the protection of refugees fleeing less accessible conflicts. However the experience in particular regions of such coordinated international cooperation with UNHCR to provide protection to persons who need it, on the basis of a humanitarian consensus, could provide the basis for the development of procedures and mechanisms for a more systematic concertation of action to meet urgent international protection needs identified by UNHCR. The periodic meetings of government experts on temporary protection for refugees from the former Yugoslavia and the Steering Committee of the CPA are examples of such mechanisms. It should be noted that the mechanisms of cooperation accepted by Governments have thus far been informal and consensual. While Governments have welcomed the guidance of UNHCR concerning the need of particular groups for international protection, beginning with asylum, the suggestions of some States receiving large numbers of refugees for systematic "burden-sharing", involving the establishment of quotas for a fair repatriation of asylum-seekers or refugees, have had a very cool reception from other less directly-affected countries.

57. Given broad consensus on the need to provide protection, including asylum on at least a temporary basis, to refugees forced to flee war or serious civil disorders as well as to those fleeing persecution, but the reluctance of Governments to enter into mutually binding agreements, the adoption of guiding principles embodied in a global or regional declaration, together with a systematic recourse to concerted arrangements coordinated by UNHCR, could be the most realistic option. The High Commissioner would welcome the advice of the members of the Executive Committee as to how the objective of ensuring that all who need international protection receive it may best be achieved.

V. THE NEED FOR PROTECTION IN COUNTRIES OF ORIGIN

58. Not all the victims of conflicts or human rights abuses in their home countries seek, or reach, safety in another country and become refugees. The same

failure of protection which precipitates refugee flows often causes displacement within national borders; and, besides those who are displaced, wars, civil disorders and the threat of persecution also affect many people who remain in or near their homes. From the standpoint of the international protection of refugees, finding remedies for the lack of protection in countries of origin is essential to achieve the preferred solution of voluntary repatriation, and also to prevent future refugee flows.

59. Since refugees have crossed an international border and do not enjoy the protection of their own Government, it is natural that the international community should concern itself with their welfare, and that Governments of the countries receiving them should solicit and welcome such concern. With respect to persons in need of protection and assistance who remain within their own national boundaries, however, considerations of national sovereignty may take precedence over humanitarian concerns. It is of course the responsibility of each State to respect and ensure the rights of everyone within its territory and subject to its jurisdiction, and unsolicited international involvement in assisting and protecting people in their own country may be be viewed as an infringement on the prerogatives of the State. This position is however qualified by the increasing acceptance by States of the legitimate concern of the international community for human rights, and by the fact that State sovereignty must be accompanied by the appropriate exercise of State responsibility. This includes the duty under international humanitarian law to afford access to essential humanitarian assistance for those who need it.

60. UNHCR's efforts to promote solutions and to contribute to the prevention of refugee problems include support for measures in countries of origin contributing to respect for human rights and the peaceful resolution of conflicts that have or may give rise to refugee flows. However, the Office's direct involvement and concern with the protection of nationals in their own countries relates primarily to four categories: repatriating refugees, the internally displaced, persons threatened with displacement or otherwise at risk, and stateless persons.

61. International protection in voluntary repatriation: The promotion and facilitation of voluntary repatriation are among the responsibilities of the High Commissioner listed in the Statute of the Office, and have from its inception been key activities of UNHCR. The Executive Committee, in a Conclusion endorsed by the General Assembly, has recognized

> [t]he High Commissioner as having a legitimate concern with the consequences of return, particularly where such return has been brought about as a result of an amnesty or other form of guarantee. The High Commissioner must be regarded as entitled to insist on his legitimate concern over the outcome of any return that he has assisted. Within the framework of close consultations with the State concerned, he should be given direct and unhindered access to

returnees so that he is in a position to monitor fulfilment of the amnesties, guarantees or assurances on the basis of which the refugees have returned. This should be considered as inherent in his mandate. [12]

62. This Conclusion reflects what has become the Office's standard practice of actively monitoring, with the full agreement of the States concerned, the situation of returnees in their country of origin, in addition to promoting, facilitating and coordinating their voluntary repatriation. In most cases such monitoring, as well as support for rehabilitation and reintegration programmes, is explicitly provided for in tripartite or bilateral agreements between UNHCR and the States concerned. In the best circumstances, the monitoring aspect of UNHCR's presence in the country of origin of repatriating refugees results in simply confirming to other potential repatriants and to the international community the safety and well-being of those who have already returned. Where refugees voluntarily return home to unstable or insecure conditions, however, the Office's role includes interceding with the authorities and other relevant parties at the local and national levels to ensure the safety of returnees and enforcement of their basic rights. In several countries of repatriation UNHCR is currently working in close cooperation with the Government and returnee leaders to help re-establish or strengthen effective national protection and build confidence so as to permit further repatriation.

63. The promotion, facilitation and monitoring of voluntary repatriation calls for a different set of protection tools, both legal and non-legal, than protection in countries of asylum. Several current situations present enormous challenges that will require new approaches and strategies quite different from those that have been applied traditionally, for example when a country achieved independance or returned to democracy. When countries have been riven by ethnic strife and civil war - particularly when these have included genocide, war crimes and crimes against humanity - the process of reconciliation, if indeed possible, can be expected to be long and arduous. Formal amnesties or guarantees will be of little value to the returning refugee if they are not accompanied by the political will at every level to give them effect, and if they do not represent a genuine commitment by the people themselves to live together in peace. For such a commitment to be made and maintained, each of the different groups and communities that compose a "national community" must themselves be, and feel, secure in the enjoyment of their own rights and freedoms. This is a political and social challenge that extends far beyond the resolution of a refugee problem and in some cases affects the continuing viability of the national entity itself. It is accompanied by an urgent need to reconstruct devastated infrastructure and to re-establish political, administrative and social institutions. UNHCR's role in promoting and facilitating voluntary repatriation in these circumstances is one component of a multi-sectoral process that will require the mobilization of support and resources on a vast scale from many parts of the international community.

64. Protection of the internally displaced and local population at risk: Activities of the kind described in the preceding paragraphs are closely linked with - indeed are often the same as - UNHCR's activities on behalf of the

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[12] Executive Committee Conclusion No.40(XXXVI)(1985), para. (1). See GA res. 40/118 (13 Dec.1985), para. 7.

internally displaced and other persons in vulnerable situations in their own country. The protection aspects of UNHCR's activities on behalf of internally displaced persons are discussed in a note submitted by the Office to the present session of the Executive Committee (EC/SCP/87), as well as in last year's Note on International Protection (A/AC.96/815, pp.16-21). While the situation of the internally displaced is closely analogous to that of refugees, differing in that the former have not crossed an international border, a review of UNHCR's past and current operational activities with internally displaced shows that in most cases it is neither possible nor desirable, when providing assistance or protection to persons in their own country, to make distinctions between the displaced and other affected persons in the same area, except on the basis of actual need. In areas of ongoing conflict or systematic abuses of human rights, for example, the besieged or threatened local population may be in as much or greater need of protection and assistance than those who have been displaced, or than returnees or refugees. Where the displacement has been into areas where effective protection is provided by the local authorities, the displaced may in fact be more secure than those who have stayed behind. In many other situations, as the analytical report of the Secretary- General has pointed out,[13] displacement itself entails extreme vulnerability and leads to further abuses of fundamental rights. The conclusion to be drawn is that coerced displacement, whether within or across national borders, should be seen as the consequence and symptom of a broader problem involving the absence or failure of national protection, a problem which should if possible be addressed globally rather than piecemeal. Where UNHCR is called upon to provide assistance and protection to groups in their own country, whether they be repatriating refugees, internally displaced, "returnees" from displacement, or persons at risk in the local population, it accordingly seeks to respond to the relevant needs of <u>all</u> members of the community, making distinctions, where appropriate, on the basis of actual need rather than status.

65. <u>Protection in countries of origin</u>: UNHCR performs protection functions on behalf of persons in their own country in several different types of situation. In the traditional and still very common type of situation, such as in the repatriation of refugees to relatively peaceful and stable conditions, the role of the Office and of other international agencies is primarily to support efforts by the Government to ensure protection to its nationals. While providing such support is clearly an aspect of the High Commissioner's international protection functions, it is perhaps appropriate to call it "international support for national protection". Other types of situation include those where the Government is unable to ensure protection because it does not have control over a portion of its own territory; situations where central government authority has disappeared; where the Government or de facto authority is itself either unwilling to protect or actively oppressing individuals within its territory but nonetheless is persuaded to accept the presence of international monitors; and situations of transition between regimes, extreme instability or active conflict where the international community is either called upon by the recognized Government or is authorized to act by the competent organ of the United Nations to provide humanitarian assistance and some form of protection. In the last type of situation, a variety of more direct

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[13] Analytical Report of the Secretary-General on Internally displaced Persons, E/CN.4/1992/23, para. 6 and passim. See also Note by the Secretary-General, E/CN.4/1992/35, Annex, para 30.

protection functions performed by agencies such as UNHCR, ICRC, United Nations human rights mechanisms and, increasingly, United Nations and regional peace-keeping operations, may be considered a kind of "international" protection, although the term is used in a somewhat different sense than in the UNHCR Statute. The "international protection" that can be extended by a humanitarian organization such as UNHCR is obviously not a substitute for the concrete protection and security that should and must be provided by a Government discharging its responsibility to respect and ensure the fundamental human rights, including the rights to life, liberty and security of person, of all individuals in its territory.

66. Stateless persons are another category who do not enjoy full national protection. Since their basic human rights are in principle respected in their country of habitual residence, they are generally not thought to be in acute need of international protection unless they are also refugees. However statelessness brings an added element of vulnerability, and in some countries stateless persons are in chronic need of protection. The Convention relating to the Status of Stateless Persons and the Convention for the Reduction of Statelessness provide valuable legal tools for their protection, but most countries where problems are most acute are parties to neither; only 18 countries have acceeded to the latter. UNHCR has been provisionally designated by the General Assembly as the body to which persons seeking to benefit from the provisions of this Convention can apply.[14] The prevention and reduction of statelessness and the protection of stateless persons are important for the prevention of potential refugee situations, and promoting accessions to the relevant conventions as well as the enactment of appropriate national legislation is part of UNHCR's prevention-related promotion activities.

67. If the absence of protection in countries of origin is the immediate cause of refugee flows as well as internal displacement, ensuring that such protection is provided by States, whose paramount responsibility it is, must be a principal goal of UNHCR's prevention strategies; it is also indispensible to achieve the solution of voluntary repatriation.

VI. CONCLUSION

68. The tasks of international protection that the international community has conferred upon the High Commissioner have to a certain extent outgrown the tools, particularly the legal tools, that are available to accomplish them. Significant numbers of people who are in need of international protection are outside the effective scope of the principal international instruments for the protection of refugees. The gaps in formal legal coverage are filled partially by a variety of regional instruments and declarations, national laws, and ad hoc practical arrangements relying on the considerable generosity and good will of States. However, to a large degree, ensuring that all those who need international protection receive it depends on the continuing initiative and vigilance of UNHCR, together with concerned Governments, with the indispensible support of the international community as a whole, including non-governmental organizations. While the likelihood of strengthening the system of international protection

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[14] GA res.3274(XXIX), 10 December 1974.

through a broader international refugee convention seems remote, international or regional declarations embodying guiding principles of international protection and reaffirming the commitment of States to ensuring, in cooperation with the High Commissioner, the protection of people who are forced to flee or remain outside their countries owing to armed conflict, widespread violence and/or grave abuses of human rights would be useful additions to the tools currently at hand. At the same time, it must be recognized that legal tools are only one element, although an important one, of international protection. The successful accomplishment of the High Commissioner's international protection mandate requires a global approach to the problem of coerced displacement, and protection, including first of all asylum, for those who need it, for so long as they need it, together with the promotion of conditions in countries of origin that will permit solutions for refugees and prevent future refugee problems through the protection of individuals in their own homes and their own countries. The comprehensive strategies required obviously far exceed the capacity of humanitarian agencies, but UNHCR will continue to do its part.

69. If the absence of protection for people within their own countries is the result of serious and intractable political, economic and social ills, implying a lack of solidarity between different groups and, often, the breakdown of the trust that should exist between citizens and their Governments, the response to the plight of refugees by the international community nonetheless demonstrates a countervailing strength of the world's peoples and of their Governments: the willingness to act on the basis of human solidarity and international cooperation and to provide refuge and assistance to millions of people who have been obliged to flee violence or persecution. Again and again, moved by a sense of common humanity, people and Governments in every region have reached out across geographical, ethnic, religious and linguistic barriers, and put aside narrow views of their national or individual interest in order to pursue this humanitarian objective. In constructing an international system for the protection of refugees under the auspices of the United Nations, the Governments of the world, on behalf of their citizens, have recognized, accepted, and continued to discharge a shared responsibility for the protection of people who are unable to avail themselves of the protection of their own Governments. In a period when the toll of human misery seems inexorably to rise, this near universal commitment to the protection of refugees constitutes a heritage of hope that must be preserved and strengthened.

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Forty-fifth session

NOTE ON INTERNATIONAL PROTECTION
(submitted by the High Commissioner)

Corrigendum

1. Paragraph 17, Line 10:

For 1949 Geneva Protocol read 1949 Geneva Convention

2. Paragraph 32, Line 3:

For in read is

3. Paragraph 40, Line 11:

After would insert be

4. Paragraph 40, Line 12:

For of read or

GE.94- 03914

5. Paragraph 41, line 6

After variety insert of

6. Paragraph 56, line 23

For repatriation read repartition

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CONSOLIDATING PEACE IN CENTRAL AMERICA THROUGH AN INTER-AGENCY APPROACH TO LONGER-TERM NEEDS OF THE UPROOTED

Report on the Conclusion of the CIREFCA Process

(submitted by the High Commissioner)

I. INTRODUCTION

1. After a duration of five years, the International Conference on Central American Refugees (CIREFCA) process formally concluded in Mexico City on 28 and 29 June 1994 at the Third International Meeting of the CIREFCA Follow-up Committee, comprising the seven convening countries (Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico and Nicaragua). The meeting, which attracted broad international participation and included Guatemalan refugee representatives, was hosted by the Government of Mexico, in its capacity as president of the Follow-up Committee, and was jointly convened by the United Nations Development Programme (UNDP), UNHCR, and the Office of the United Nations Secretary-General. At this event, the international community approved a "Framework for Action in Favour of Populations and Areas most Affected by Extreme Poverty, Conflict and Displacement" 1/, as a new basis for coordinated action in the post-CIREFCA period, and also adopted a Declaration of Commitments.

GE.94-03540

2. The present document outlines developments pertaining to the conclusion of CIREFCA, especially UNHCR's contribution in relation thereto. It highlights the catalytic role the Office can play, with the support of the Executive Committee, in ensuring that the needs of uprooted populations are reflected adequately in longer-term development strategies and programmes. UNHCR is keenly aware that both the causes of and solutions to human displacement in Central America are intimately linked to the eradication of extreme poverty through effective development policies and programmes, respect for human rights, and the political will to resolve conflicts through peaceful means. For all parties involved, the final phase of CIREFCA is replete with valuable lessons on both the potential and the difficulties involved in ensuring a smooth transition from relief to development through operational strategies at the country level.

3. A central role in inter-agency endeavours in CIREFCA's final year was played by UNDP, which took over the "lead agency" role in the process in July 1993. It will be recalled that this role had been discharged by UNHCR for the previous four years. It is apparent from this experience that UNDP Resident Representatives have a vital role to play at the country level, especially in stimulating the involvement of key line ministries, such as finance, planning and social action, as well as other development agencies and institutions. Furthermore, the UNDP-led CIREFCA Joint Support Unit, staffed by both agencies, proved indispensable in providing and mobilizing political, technical and financial support for CIREFCA throughout the process. The challenge now is to ensure that the admirable work methods of the Unit are incorporated into core structures of both agencies when it disbands at end 1994.

II. THE REGIONAL PEACE PROCESS AND CIREFCA: A CONVERGENCE OF INTERESTS

4. A distinctive feature of CIREFCA's strategy to achieve lasting solutions for the uprooted is its linkage with the broader political commitment of the Central American countries to secure a negotiated peace in the region. As evidenced by the adoption of the CIREFCA Plan of Action in May 1989 in Guatemala City, vital inspiration was derived from the Esquipulas II Accords of August 1987, when the Central American Presidents recognized that there could be no lasting peace without initiatives to resolve the problem of refugees, returnees and displaced persons in the region. Similarly, the pressing need to respond to refugee issues (especially voluntary return) has often provided fresh impetus to peace talks and processes in the region. This phenomenon was most recently illustrated by the breakthrough reached in the Guatemalan peace negotiations through the signing by the parties in Oslo, Norway, in June 1994 of vital agreements covering human rights verification and reintegration of populations uprooted by this 30-year internal conflict.

5. Within the overall framework of the regional peace process, durable solutions (either through voluntary repatriation or local integration in countries of asylum) have been attained through CIREFCA for the majority of Central American refugees; as a result, the assisted refugee caseload has decreased by over 50 per cent since 1989 2/ and all formal refugee camps have

been closed. As at July 1994, a total of over 70,000 Nicaraguans, 32,000 Salvadorians and 16,000 Guatemalans had returned home under UNHCR auspices. Local integration has also been pursued sucessfully in countries of asylum, especially in Belize and Costa Rica. Obtaining durable solutions, either through voluntary repatriation or local integration for the 45,000 Guatemalan refugees in Mexico thus remains UNHCR's main outstanding task in relation to Central American refugees 3/. Key aspects of CIREFCA's approach in pursuit of lasting solutions for the uprooted include:

- Strengthening international protection and respect for basic human rights of the uprooted, especially through application by most States in the region of the broader refugee definition, tailored to the Central American influxes of the last decade, as contained in the 1984 Cartagena Declaration. In addition, the reintegration of returnees and the displaced in civil and political life has been facilitated through UNHCR's legal documentation activities. In El Salvador, for instance, UNHCR supported the issuance of over 1 million personal identity documents and the reconstitution of municipal registries destroyed during the war.

- Linking the search for durable solutions for refugees and returnees with efforts to address the plight of the internally and externally displaced. Since the displaced were estimated, in 1989, to comprise 88 per cent of the approximately 2 million Central Americans uprooted by the regional conflicts, this broader approach has proved crucial. Efforts to promote national reconciliation by targeting affected communities, comprising mixed populations of the internally displaced, refugees, ex-combatants and local populations, have generated innovative programmes such as the UNHCR-designed quick impact projects (QIPs) and the Development Programme for Displaced Persons, Refugees and Returnees in Central America (PRODERE), executed by UNDP.

- Introducing gender-sensitivity into CIREFCA activities, thereby stimulating the participation of women at all stages of project implementation as well as awareness of their basic rights. Fulfilment of this objective was aided by the Regional Forum on Refugee and Displaced Women in Central America (FOREFEM) initiative of February 1992 and by the inclusion of a United Nations Development Fund for Women (UNIFEM)-funded specialist in the UNHCR/UNDP CIREFCA Joint Support Unit.

- Mobilizing significant additional and non-reimbursable funding, from both humanitarian and development sources, thereby alleviating the economic and social impact of CIREFCA populations on the affected countries. A total of $ 420 million for CIREFCA projects is recorded for the period 1989 to 1994, including $ 79.4 million channelled through UNHCR.

- Promoting consensus-building, dialogue and reconciliation between parties, especially through the various CIREFCA follow-up mechanisms, at regional and national levels. In this context, the

crucial role and impact of non-governmental organizations (NGOs) has continued to strengthen. In Guatemala, for instance, NGOs participate (through the International Council on Voluntary Agencies (ICVA) and the World Council of Churches (WCC), along with donors, in an international support group created to facilitate dialogue and accompany repatriation movements.

- Engaging the United Nations system, especially the Office of the United Nations Secretary-General, UNHCR and UNDP in a coordinated effort to resolve the plight of the uprooted, within the overall framework of the Secretary-General's "Agenda for Peace" in Central America; this endeavour has underscored the inter-relationship between forced migration and broader efforts to secure peace, development and respect for human rights.

III. PREPARING THE GROUND FOR THE POST-CIREFCA PHASE

6. During discussions on CIREFCA at the Forty-fourth Session of the Executive Committee, in October 1993, key parties (convening countries, the donor community and NGOs) requested UNHCR not only to continue exercising its mandate in Central America after the conclusion of the process in May 1994, but also to become more involved in the elaboration of future strategies within which the needs of the uprooted would be taken into account. As a result, the Executive Committee, in its Conclusion on CIREFCA, inter alia:

> emphasize[d] the importance of ensuring, upon CIREFCA's conclusion, in May 1994, specific incorporation of the needs of refugees, returnees and displaced populations into UNDP's post-CIREFCA strategy and, to this end, request[ed] UNHCR and UNDP to jointly convene an informal technical meeting, before end 1993, and to invite countries of the CIREFCA Follow-up Committee and the international donor community. (A/AC.96/821,para 25(k))

7. Spurred by the Executive Committee conclusion, joint UNHCR/UNDP preparatory work to devise an appropriate post-CIREFCA strategy was initially entrusted to a working group which included the CIREFCA Joint Support Unit and key field staff of both agencies. This exercise resulted in a shared conviction that the situation of uprooted populations after CIREFCA's conclusion should continue to be addressed within an inter-agency framework, the key components of which would be the Secretary-General's "Agenda for Peace" in Central America, UNDP's sustainable human development strategies (at national and local level) and UNHCR's strategy of prevention, emergency preparedness and solutions. The need to diversify and augment inter-agency cooperation was also emphasized, especially with a view to forging links with UNICEF and the Pan American Health Organization (PAHO), engaged in vital strengthening of municipal health and water/sanitation programmes throughout the region, as well as with international/regional development banks which have prioritized the social sector in Central America.

8. Owing to the evolution in the regional situation in the past five years, both agencies believed that the conclusion of CIREFCA should signal a shift in emphasis, away from the primarily short-term interventions carried out to date. Henceforth, the needs of uprooted populations should increasingly be addressed as part of a broader commitment, especially by Governments, to social and economic development. This implied tackling critical poverty by targeting specific geographical areas in countries where the factors of human displacement, conflict, and extreme poverty converge. Moreover, it was clear that such interventions needed to be linked with national macro-economic and sectoral policies to ensure sustainability and to broaden efforts to decentralize authority and resources to the local level. A key element, taken into account during the preparatory work, was an analysis of donor perceptions of regional priorities and potential external funding sources, in the context of competing global needs.

9. Pursuant to the above-mentioned Executive Committee decision, the CIREFCA Informal Technical Meeting was held in San José, Costa Rica, in February 1994, with participation of over 120 representatives of the international community who endorsed the joint UNDP/UNHCR proposal and provided vital orientation on key issues, noting in particular that:

- There was a shared perception of the delicate transitional phase prevailing in Central America, where firm progress towards democracy in some countries contrasts with ongoing conflict and worsening poverty levels in others. Likewise, it was recognized that, whereas the main challenge at the inception of CIREFCA in 1989 had been to achieve peace, the principle challenge now is to ensure successful conclusion of the peace negotiations in Guatemala, and to consolidate peace in the region, with emphasis on sustainable human development.

- The "pending agenda" of the CIREFCA Plan of Action needed to be completed; this pertains especially to ongoing reintegration/integration programmes in the region, particularly for Guatemalan refugees, and for internally and externally displaced populations for whom durable solutions have not yet been achieved.

- National strategies and commitments, formulated through participatory processes derived from CIREFCA, were crucial to resolve outstanding humanitarian tasks and to tackle extreme poverty and the roots of social exclusion in the region.

- The different views in relation to follow-up mechanisms, especially at the regional level, needed to be reconciled with the agreed emphasis on efforts at the country level.

10. It was further recommended that an international meeting be convened at which the CIREFCA process would be formally closed and, at the same time, renewed commitments for the future would be sought from all parties. In preparation thereof, the various national strategies in the seven countries were elaborated by consensus between the key parties (the respective

Governments, the field offices of UNDP and UNHCR, and NGOs) through an intense three-month exercise, held from March to June 1994. In each national strategy UNDP specified how its country programmes facilitate strengthening of democratic institutions, design and implementation of human development programmes for targeted areas and populations, and the promotion of policies and structural reforms geared to social justice. Likewise, UNHCR activities in the field of international protection and promotion of durable solutions are spelled out within the context of the various national strategies.

IV. NATIONAL STRATEGIES: KEY TO PREVENTION AND SOLUTIONS TO REFUGEE FLOWS

11. The results of this exercise were presented by the seven convening countries at the Third International Meeting of the CIREFCA Follow-up Committee, held in Mexico City on 28 and 29 June 1994. Key aspects of the various national strategies in the post-CIREFCA phase were outlined as follows:

- Belize chose to address poverty and tackle pending CIREFCA tasks through human development at the local level, with emphasis on capacity building. In order to cope with the socio-economic impact of refugee and displaced Central Americans, representing some 15 per cent of the total population, the need for continued international support was emphasized by Belize. The Belizean Government undertook to study the problem of undocumented aliens and to consolidate integration of refugees.

- In Costa Rica sustainable human development strategies will emphasize poverty alleviation and combat environmental degradation in priority areas in frontier districts and in Limon province, where most of the CIREFCA target populations is located. The guiding objective to Costa Rica's approach is to achieve environmentally sustainable economic and social development.

- In El Salvador, priority areas, where both uprooted populations (returnees and internally displaced) and other war-affected groups (such as former combatants) are located, include the 115 municipalities targeted by the National Reconstruction Plan (PRN) and another 36 municipalities identified by NGOs. An integrated development approach, focusing on poverty alleviation, will be pursued. Special emphasis is placed on civil society participation in the formulation and implementation of these activities.

- For Guatemala, the recently concluded "Oslo Agreement" of June 1994, reached between the Government and the Guatemalan National Revoluntionary Army (URNG) covering reintegration of uprooted populations, constituted a decisive step towards peace, the success of which would in turn rely on continued international support. For Guatemala, priority is given to addressing the needs of returnees

and internally displaced within the context of peace building, with the aim of promoting human development and political, social and economic rights. In this context, the consensus-building process initiated within CIREFCA at national level between the Government, NGOs, and the United Nations system, was of prime importance. Priority areas, covering 119 municipalities, identified as "strategic for peace consolidation", had been selected based on the coincidence of highest poverty levels and displacement.

- The national strategy for promotion of human development at the local level in Honduras will be applied in three frontier regions affected by the former presence of refugees and the displacement of the local population. Through national poverty alleviation strategies, programmes are aimed at overcoming high poverty levels and social exclusion in these areas and generating socio-economic conditions which encourage the return of displaced nationals.

- In Mexico, the Government undertook to maintain its policy of asylum and to guarantee protection to the refugee population in the country. In regard to Guatemalan refugees, pursuit of durable solutions, especially through voluntary repatriation, will continue; depending on the evolution of the repatriation process, Mexico will examine the possibility of local integration for refugees in the States of Campeche and Quintana Roo who decide not to return to their country. Mexico will reinforce national development efforts in the south-eastern part of Mexico and in the State of Chiapas, where refugees are settled and where extreme yypoverty prevails.

- The strategy of Nicaragua, formulated within its national reconciliation and rehabilitation plans, is consistent with the country's development priorities, as presented to the World Bank Consultative Group. Socio-economic reintegration of uprooted populations will be emphasized within the context of sustainable human development, promotion of human rights and broad-based participation. A total of 16 municipalities, in Regions I, V, VI and the North Atlantic Autonomous Region (RAAN), have been selected, based on high concentrations of the target populations and greatest outstanding needs still requiring donor support.

V. THE DECLARATION OF COMMITMENTS: LEGACY FOR THE FUTURE

12. The international community's endorsement of the new framework for the post-CIREFCA phase was confirmed in a Declaration of Commitments 4/ which sets out the specific commitments of the parties at the Mexico Meeting, highlights of which include:

- The Governments of Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico and Nicaragua, in addition to various other national commitments, undertook to concentrate sustainable human development efforts in priority areas (specifically indicated and

annexed to the Declaration) where human displacement is further aggravated by highest indices of extreme poverty, social exclusion, conflict and environmental degradation. The seven countries further pledged to reflect these priorities in national budget allocations and in their legal systems and institutions.

- The donor community undertook to continue providing political, technical and financial support, taking into account pending humanitarian needs and the transitional post-conflict situation in the region; support to local initiatives, promoted by both Governments and NGOs would be given special preference.

- The NGO community undertook to increase their presence in areas prioritized by consensus, to intensify dialogue with other parties, including Governments and to further coordinate their own efforts.

- The United Nations agencies and programmes (including UNDP and UNHCR) undertook to support, through their various offices, resources, services and programmes, the efforts of the Central American Governments and societies to address the "pending agenda" of CIREFCA, and the development of priority areas, in keeping with their respective mandates.

13. In addition, the inclusion of Panama in post-CIREFCA initiatives is confirmed, having been ratified by the seven convening countries. A Temporary Commission 5/ was also set up which, in a time-frame of 90 days, will propose relevant mechanisms to ensure follow-up and monitoring of the Mexico City commitments. CIREFCA was formally concluded at a closing ceremony at which statements were made by chosen representatives of the participating parties at the Meeting. On behalf of the seven convening countries, Ms. Rebecca Grynspan, Second Vice-President of Costa Rica captured the spirit of the closing ceremony by concluding with the following words:

> ....CIREFCA is an experience which has been unique in the world; it has shown that human rights, peace, development and attention to populations and areas most affected by conflict are intimately linked.
>
> The Declaration of Commitments which we have adopted today proves that we have the political will, the experience and, as well we hope, the support of the donor community and the United Nations system, in order to continue building a region where the human being is at the centre of development.
>
> With these words we wish to send a message of hope, of enthusiasm and of affection to the communities who have suffered the tragedy of displacement and who still live in the emergency of poverty.

Endnotes

1/ ref. document CIREFCA/CS/94/1 of 28 June 1994.
2/ At the CIREFCA Conference in Guatemala City in May 1989, official statistics regarding uprooted populations were: refugees (150,000), repatriants (61,500), internally displaced (872,000) and externally displaced/undocumented (900,000).
3/ For an update on UNHCR programmes in Central America, including CIREFCA, see EXCOM document A/AC.96/825/Part IV
4/ ref. document CIREFCA/CS/94/4 of 29 June 1994.
5/ The Temporary Commission comprises two members each of CIREFCA convening countries (Guatemala and Costa Rica), donor community (Commission of the European Communities and Sweden), NGOs (ICVA and Asociacion para las Migraciones Forcadas (ARMIF), and United Nations system (UNDP and UNICEF).

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Report on PARinAC

1. At its forty-fourth session, the Executive Committee requested the High Commissioner to keep it appropriately informed of the follow-up actions to the PARinAC (Partnership in Action) process. The present report complements the information note on PARinAC which was submitted to the Informal Meeting of the Executive Committee on 23 June 1994 concerning the PARinAC Global Conference, held in Oslo from 6-9 June 1994.

2. The Oslo Conference represented the culmination of six regional conferences held in Caracas, Kathmandu, Tunis, Bangkok, Addis Ababa and Budapest over the past year. It adopted a Declaration and Plan of Action containing 134 proposals for strengthened UNHCR-NGO collaboration. This Plan of Action forms the basis of a joint UNHCR-NGO humanitarian agenda to meet the vast refugee challenges worldwide in the coming years. The Declaration also fully endorsed the proposals contained in the reports of each of the regional conferences.

3. A copy of the Declaration and Plan of Action was made available to the Executive Committee at its 23 June 1994 Informal Meeting, as was a copy of the High Commissioner's keynote address to the Oslo Global Conference. In this address, the High Commissioner committed UNHCR - subject to available resources - to implementing a range of proposals from restructuring at UNHCR Headquarters, training and capacity-building of local NGOs, to an assessment, carried out over the past three months, of measures adopted to ensure the follow-up and implementation of the various proposals.

4. Since the Oslo Conference there has been a process of intensive consultations both within UNHCR as well as between NGO representatives and UNHCR field offices. On 30 September 1994, NGO representatives will present to the Executive Committee a series of reports based on preliminary review of the recommendations contained in the Plan of Action conducted by the NGO focal points designated by NGOs represented at Oslo.

5. In this process, NGO PARinAC focal points in Central America, Canada, South Asia, Southern and West Africa have [illegible] discussions between UNHCR and NGOs in the field, with a view to establishing a set of objectives based on the Plan of Action. They have communicated their initial recommendations to the International Council of Voluntary Agencies (ICVA), which will form the basis of the 30 September reports. ICVA is actively seeking funds to assist the implementation of NGO proposals.

6. The paragraphs that follow provide a summary of the initial steps UNHCR has taken to translate some of the main proposals contained in the Plan of Action into concrete follow-up and measures taken for their implementation.

7. The process of institutional restructuring at Headquarters and in the field, aimed at providing a more effective collaboration and coordination with NGOs, has been completed. The staff of the NGO Section is now located in the Office of the Director of External Relations and the Acting Chief of that Section is now the NGO Coordinator within the Division of External Relations, reporting directly to the Director. A focal point for liaison with NGOs on all operational matters in each region has been designated, at the senior level, in the Regional Bureaux. In addition, each Bureau has identified regional or sub-regional focal points for liaison with NGO partners on all matters regarding follow-up and implementation of the PARinAC process.

8. Briefing sessions and follow-up meetings have been held between UNHCR focal points in the field and national NGOs, relating to the increased role of NGOs in operational activities. These meetings fall within the framework of UNHCR's commitment to consult more closely and more regularly with NGOs, particularly at the local level, and to involve them as far as possible in the formulation of programmes in all relevant areas, including emergency response, repatriation, protection and the internally displaced.

9. In May 1994, a draft Programme and Project Management Handbook for UNHCR's Implementing Partners was distributed to some 25 NGO networks and implementing partners for their views and for discussion. The Handbook hopes to lay the foundations for greater transparency and coordination between UNHCR and NGOs in the formulation of programmes and strategies. It seeks to facilitate an increased knowledge by NGOs, especially local NGOs, of UNHCR's administrative, programme and budgeting procedures to be observed in the implementation of UNHCR funded projects. To date, very few responses have been received. It is expected that the final version of this Handbook, including NGO contributions, will be completed by the end of this year.

10. The multiplicity of crises and the complexity of prevention and solutions have made UNHCR acutely conscious of the need for prompt and effective emergency preparedness and response to potential or developing humanitarian crises. The

PARinAC process stressed that the training and capacity-building of local NGOs is crucial to the ability to respond to humanitarian emergencies and prevent their recurrence. It also highlighted the importance of linking training strategies to capacity-building of local NGOs with a view to facilitating their efficient involvement in protection, assistance and management of UNHCR-NGO humanitarian activities, and optimize the benefits of training.

11. Participants in PARinAC made a strong call for greater cooperation between UNHCR and NGOs in the organization of training seminars on issues relating to response and preparedness in refugee emergencies. UNHCR is currently conducting emergency management training workshops on a regional basis. Priority is being given to regions prone to emergencies and regions which have not yet had the benefit of such training. These training workshops are targeted not only at UNHCR staff, but also at government and NGO counterparts operating in the regions. Since 1991, NGO participation in regionally targeted emergency workshops has increased three-fold. While this trend will be continued, additional human and financial resources are needed in order to conduct short-term training programmes, both before and during emergency situations, to strengthen the response capacity of local agencies.

12. Traditionally, all training activities in core subjects such as protection, programme management, emergency management, voluntary repatriation, social and community development, have been attended jointly by UNHCR and NGO participants. Over 1,000 NGO staff attended UNHCR's training programmes during 1994, and it is anticipated that over 2,000 will have benefited from this type of training by the end of 1994. In line with PARinAC recommendations, programme management; certain types of other training activities for non-UNHCR staff undertaken by offices in the field; and protection training will be budgeted and implemented under operational projects according to priorities defined in UNHCR country operations plans.

13. As regards programme management training courses for UNHCR's implementing partners, offices in the field have been requested to integrate such activities into their country operations plans, as well as to include them in revised 1995 initial project submissions.

14. Offices in the field have also been requested to undertake a training needs assessment and to include in their project submissions, as applicable, proposals for the training of non-UNHCR staff in areas such as voluntary repatriation, registration, resettlement, social services and community development, nutrition and epidemiology and food aid and logistics.

15. In the area of protection training in particular, UNHCR has urged increased emphasis by all field offices on the involvement of UNHCR's implementing partners both as recipients and partners in such activities. UNHCR will reinforce the capacity of its field staff, locally and regionally, to organize training courses in the areas of human rights, refugee law and international humanitarian law, through the development of training material and special training programmes for trainers. However, additional human and financial resources are again needed to establish and/or reinforce protection training coordinators for all regions.

16. Current training strategies are geared at enhancing NGO skills and technical competencies in the handling of specific operations and activities. They must also assist in building and strengthening the institutional capacities of UNHCR's non-governmental partners, particularly local NGOs. The regional and global PARinAC recommendations stress the need for UNHCR to assist in building the capacities of local NGOs to facilitate their greater involvement in devising and implementing reintegration, rehabilitation and development programmes. There is a need to address the gap between initial relief assistance and full reintegration and the gap between the end of UNHCR active involvement and the full establishment of development programmes to integrate refugees into local communities. A key to bridging these gaps lies in building up the capacity of local NGOs to respond to emergency needs and to link their programmes to those of national development counterparts. NGO involvement in such continuum programmes requires extensive capacity-building, a task which calls for other actors to supplement UNHCR's efforts.

17. The flexibility and ability of local NGOs to mobilize quickly, and their ability to reach areas, sometimes inaccessible to international organizations, and their roots in the local community make them particularly important partners, both in terms of emergency response and in reintegration and resettlement activities. The Office has approached international financial and development institutions, such as the World Bank, noting that they can do a great deal in helping to prevent refugee flows by addressing some of the root causes, for instance, through capacity-building of local NGOs and institutions. In the coming months, as a follow-up to NGO-UNHCR assessments in the field and review at Headquarters, UNHCR will contact the World Bank, other international and financial development institutions for funding for capacity-building of local NGOs.

18. These training and capacity-building initiatives are contingent upon present and future priorities and availability of funds, and continue to be subject to existing budgetary and staffing constraints. UNHCR looks forward to greater participation of other United Nations agencies and international NGOs in this area, particularly in providing human and financial resources and sharing experience, in order to strengthen local NGO capacities and skills.

19. Strengthened cooperation and coordination with non-governmental partners in responding to global humanitarian problems calls for a reinforcement and development of mechanisms for the sharing of early warning information. While the PARinAC recommendations acknowledge the importance of early warning mechanisms in emergency preparedness, these also recognize that the impact of such systems is often limited by the absence of interagency information-sharing structures. For its part, UNHCR will continue to provide NGOs with information regarding access and use of existing systems and to increase, expand and provide NGO access to its refugee databases, especially those dealing with country conditions and legal practices.

20. UNHCR's Centre for Documentation on Refugees (CDR), is engaged in the continued development and maintenance of its databases as an easy-to-use electronic library. Current initiatives seek to develop and expand efficient access to external users, and to maintain a continued focus on database development, updates, and quality control. The promotion of the use of and

development of the International Refugee Electronic Network (IRENE) will be continued with direct involvement of NGOs. These activities have received a renewed impetus as a result of PARinAC. Different possibilities for utilizing IRENE are being pursued, such as enhancing electronic mail communication with NGOs on various electronic networks, developing electronic networking with an increasing number of refugee and human rights information centres worldwide, and hosting some of the CDR databases to allow on-line access.

21. UNHCR has begun to test the potential of IRENE as a viable conduit for collection of information for early warning with NGOs and other local observers already connected to electronic networks. In addition to information, and in order to share ideas and avoid duplication, contacts have been developed with both United Nations and non-United Nations agencies and individuals engaged in development of early warning systems. As proposed in the Oslo Plan of Action, ways to structure the flow of early warning information from local observers to UNHCR are being explored. UNHCR has taken initiatives to provide development assistance and training courses in documentation to NGOs. It is planned that the CDR database training will be a regular feature of protection training courses, which will in turn allow for widespread knowledge and use of the databases as a protection tool. The CDR is currently undertaking these activities within existing resources, additional resources will be needed to ensure their continuity.

22. Effective protection and assistance to refugee women and children were a predominant issue in the PARinAC discussions. The Plan of Action stresses the need for UNHCR and NGO staff to ensure that the needs of vulnerable groups, and in particular, women and children, are incorporated in all aspects of planning and implementation of protection and assistance programmes. The implementation of this proposal is contingent upon the provision of appropriate training for field staff to enable them to ensure that activities are gender sensitive and target the needs of the most vulnerable among the refugees. UNHCR's People Oriented Planning (POP) training strategy for 1994-5 focuses on the adaptation of the training to local needs. By encouraging an indigenous training capacity, the course will be more accessible to local NGOs and will benefit from adaptation to local experience.

23. Considerable concern was expressed during the PARinAC process regarding the rise of xenophobia and racism in host countries, and the need to increase public awareness about the plight of refugees. Public information is a central tool in reversing such trends. UNHCR is committed to maximizing the use of the media, schools, youth groups and NGOs to increase public awareness of and support for the refugee cause and to combat racism and xenophobia. Print and broadcast material is being regularly provided to NGOs. Additional resources will be needed to make available public information material systematically among NGOs at the national, regional and international levels, and most importantly, to make these materials available in appropriate languages.

24. The vast and difficult challenges facing the international consortia dealing with the uprooted victims of persecution and violence, call urgently for the strengthening of UNHCR's links with NGOs in all sectors of humanitarian action. The wide-range of proposals contained in the Oslo Plan of Action rest on the conviction that adequate responses to future humanitarian problems are contingent

upon improved cooperation and coordination with non-governmental agencies. This is a two-way process which requires substantial investment of human and financial resources on both sides. The agenda set forth in the Oslo Plan of Action requires broadening the range of actors in humanitarian action, as well as additional financial support and, in some cases, the direct support of other United Nations agencies, inter-governmental organizations, financial and development institutions and Governments. The Executive Committee will be kept abreast of the actions UNHCR and NGOs undertake, following an in-depth region-by-region evaluation in each region of the PARinAC recommendations.

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HIGH COMMISSIONER'S PROGRAMME

Forty-fifth session

REPORT OF THE BOARD OF AUDITORS TO THE GENERAL ASSEMBLY ON THE ACCOUNTS OF THE VOLUNTARY FUNDS ADMINISTERED BY THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES FOR THE YEAR ENDED 31 DECEMBER 1993 (*)

* An annex contains follow-up actions to implement the Board's recommendations for 1992 as well as the comments of the Board thereon.

INDIANA UNIVERSITY

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Annex: Follow-up on actions taken on previous recommendations

Introduction

1. The Board of Auditors has audited the financial statements of the voluntary funds administered by the United Nations High Commissioner for Refugees (UNHCR) for the period 1 January 1993 to 31 December 1993 in accordance with paragraph 22 of the statute of UNHCR. The audit was conducted in accordance with article XII of the Financial Regulations of the United Nations and the annex thereto and the common auditing standards adopted by the panel of External Auditors of the United Nations, the specialized agencies and the International Atomic Energy Agency. These auditing standards require that the Board plans and performs the audit to obtain reasonable assurance as to whether the financial statements are free of material misstatement.

2. The audit included a general review of financial systems and internal controls, and a test examination of the accounting records and other supporting evidence to the extent the Board considered necessary to form an opinion on the financial statements. It did not involve a detailed review of all aspects of budgetary and financial systems and the results cannot be regarded as a comprehensive statement on them.

3. The audit was carried out in the headquarters of the UNHCR at Geneva and in its regional offices at Addis Ababa and Buenos Aires, Branch Office at Nairobi and Office of the Charge de Mission in Hong Kong.

4. In addition to the audit of the accounts and financial transactions, the Board carried out reviews under Article 12.5 of the UN Financial Regulations. The reviews concerned the efficiency of financial procedures, the internal financial controls and, in general, the administration and management of the UNHCR.

5. The Board continued its practice of reporting the results of specific audits through management letters containing detailed observations and recommendations to the Administration. This practice helped in maintaining an ongoing dialogue with the Administration on audit issues.

6. A summary of main findings and recommendations is reported in paragraphs 9 to 29. The detailed findings of the audit are reported in paragraphs 30 to 111.

7. The present Report covers matters which, in the opinion of the Board, should be brought to the attention of the General Assembly. The Board's observations on all matters contained in this report were communicated to the UNHCR. The UNHCR has confirmed the facts on which the Board's observations and conclusions are based and provided explanations and answers to the Board's queries. The Report is divided in two parts covering the audit of financial statements and management issues, respectively.

Follow-up on actions taken on previous audit recommendations

8. The Board has reviewed the measures taken to implement the previous audit recommendations made in its report for the year 1992 1/. The administration has implemented or initiated action to implement the recommendations. Detailed actions taken and the comments of the Board are outlined in the annex to this report.

Summary of recommendations

9. The Board recommends that the following actions, presented in order of priority, should be taken:

Programme management

(a) In addition to providing guidelines and better tools for registration of refugees, conditions conducive to organizing the registration should be created in concert with the host governments and main implementing partners in order to ensure the delivery of benefits to genuine refugees, thereby avoiding wastage and leakage of resources (see paras. 50 and 51);

(b) Steps should be taken to contain within a reasonable limit both the direct and indirect staff costs and the administrative expenditures relating to UNHCR programmes. In particular, norms should be established to regulate the overhead costs of implementing partners (see paras. 58-60);

(c) Greater emphasis should be laid on imparting necessary training to the implementing agencies and on undertaking effective physical and financial monitoring visits to and evaluation of projects by UNHCR field offices, to overcome the deficiencies in project implementation (see paras. 67 and 68);

(d) In order to ensure prompt signing of project agreements and smooth implementation of projects, there should be greater involvement of implementing partners in project formulation. (see paras. 54 and 55);

(e) The propriety of the peculiar arrangement with an implementing partner for staff and equipment support for the field office in Hong Kong, should be examined in the context of the need for control over staffing and acquisition of non-expendable items, and a more effective and transparent alternative adopted. This examination should also cover such arrangements elsewhere (see paras. 74 and 75).

1/ Official Records of the General Assembly, Forty-eighth Session Supplement No. 5E (A/48/5 Add 5.) Sect. I.

(f) Appropriate language versions of important manuals and guides should be available in the various regions where UNHCR operates (see para. 68).

Personnel management

(g) In future, engagement of personnel for regular work of UNHCR should be limited to the authorized level of posts and effective staffing control should be exercised. The proposed comprehensive recruitment plan should be established without further delay (see paras. 101 and 102);

(h) The Training Section of the UNHCR headquarters should be qualitatively strengthened to effectively plan, implement and evaluate the training programme consistent with the changing needs, and adequate resources should be made available for the programme (see para. 106);

Procurement

(i) Measures should be taken early to enable timely and cost-effective procurement of goods and services, including preparation of annual purchasing plans, decentralization of procurement as far as possible, standardization of prices at least in the short-run, greater use of late delivery penalty provision in purchase orders and effective monitoring of procurement made by implementing partners (see paras. 76-88);

Insurance

(j) The proposed review of insurance arrangements should cover, inter alia, the condition governing the profit sharing commission, the system of filing declarations of goods in transit for insurance and the possibility of further reduction in the premiums paid (see paras. 91, 93, 96 and 97);

Cash Management

(k) Measures to ensure the best return on investments and cash resources, including qualitatively strengthening the Treasury Section, should be expeditiously taken (see para. 45);

Budgetary control

(l) Apart from reviewing the procedures on obligation of funds and the project spending process, the project budgeting techniques and procedures should be refined so that the budget could become a more effective tool for expenditure control (see para. 37);

Summary of main findings

Budgetary control

10. The past trend in cancellation of unliquidated obligations and the extraordinary increase in the unobligated balance as at the end of 31 December 1993 clearly indicated that there was considerable over-budgeting (see paras. 36 and 37).

Write-off of losses

11. During the year 1993, losses of non-expendable property items valued at $3,316,630 were established for write-off action (see paras. 40 and 41).

Cash management

12. There is scope for increase in investment of cash balances and in earnings from investments (see paras. 43-45).

Programme management

13. In various refugee camps, the population of refugees was not correctly assessed owing to a variety of reasons, including law and order problems. As a result, UNHCR was spending more than was needed (see paras. 46-51).

14. The delay in signing project agreements with implementing partners persist. In one country, the delay was on account of the differences between UNHCR and the main implementing partner, in regard to project formulation. In another country as there was no clear understanding of the UNHCR's commitment to meet the costs of the project, no agreement has been signed since 1988 (see paras. 52-55).

15. In the absence of any norms to regulate the project overheads of implementing partners, unjustified variations in the overheads persist. The programme support and administrative costs of some of the UNHCR field offices are also high (see paras. 56-59).

16. The deficiencies in the financial control of projects implemented through various agencies, persist. There was also shortfall in achievement of planned levels of assistance. The financial and physical monitoring, and evaluation are not effective enough (see paras. 61-68).

17. The social workers engaged on UNHCR Projects in the South Latin American region are unable to use the relevant handbook in the absence of its Spanish version (see para. 69).

18. In Hong Kong, there is an unusual arrangement of obtaining staff and equipment support for the UNHCR field office under a project agreement,

thereby vitiating staffing and budgetary control and violating the normal regulations and procedures (see paras. 70-74).

Procurement

19. The Organization and most of its field offices do not have an annual purchase plan to regulate the procurement function in a cost-effective and timely manner (see paras. 76-78).

20. A sample check revealed widespread delays in vendor deliveries and there was no effective deterrent against delayed deliveries (see paras. 79-81).

21. When there was standardization of suppliers and equipment which was available from more than one source, there was no agreement on price, thereby incurring the risk of the purchases not being cost-effective (see paras. 82 and 83).

22. There was no system of ensuring that the implementing partners complied with the UNHCR procurement procedures, including competitive bidding (see para. 84).

23. There was no evidence of any detailed assessment of the relative advantages of local and international procurement. The regional procurement arrangement in Nairobi was not effective (see paras. 85-88).

Insurance

24. There was apprehension that the limited coverage of insurance of goods in transit might not justify the cost. The correctness of the profit-sharing commission received by UNHCR was not susceptible to verification and the condition governing the commission was such that it tended to perpetuate the present insurance arrangement. There was the possibility that the goods were over-insured (see paras. 89-98).

Personnel management

25. Fourteen staff members recruited for a project were working in a field-office, thereby vitiating staffing control (see. paras 99-101).

26. The Organization does not have as yet a comprehensive recruitment plan (see para. 102).

27. Not all field offices have a training plan. The resources for training are inadequate considering the need. The monitoring of the training programme by UNHCR Headquarters is not effective (see paras. 103-106).

28. There was unusual delay in a refund of money by a staff member until the Board pointed out the amounts outstanding and still recovery is not complete (see para. 107).

EDP Systems

29. The software being used as the Financial Management Information System is deficient to the extent that it does not help to record the obligations incurred. Also, due to the absence of a LAN version, a large number of stand-alone computers had to be purchased at extra cost (see paras. 108-110).

Part I: Financial statements

United Nations system accounting standards

30. In paragraph 2 of resolution 48/216C of 23 December 1993, the General Assembly took note of the United Nations system accounting standards contained in the annex to the report of the Secretary-General 2/ and requested the Secretary-General and the executive heads of the United Nations organizations to take those standards into account in the preparations of their financial statements for the period ending 31 December 1993. The organization has stated that the financial statements and schedules conform with the accounting standards.

31. In accordance with the accounting standards, separate disclosure should be made of any cash, including cash in hand, current and call accounts and term deposits with banks held in non-convertible currencies. This requirement has been overlooked. The Administration promised to make the necessary changes in the computer system in order to be in a position to retrieve this information and report it at the end of the year, in future.

32. The Administration informed the Board that there were no prior period items having a material effect on the financial statements, nor were there any important contingent gains or losses, or events occurring after the end of the financial period, to be disclosed in conformity with the accounting standards. However, according to a foot note given in schedule 3, there is a claim for the cumulative expenditure of $111.46 million (net of reimbursement by UNHCR) incurred by the Government of Hong Kong as at 31 December 1993, to meet the costs of care, maintenance and social services required by asylum seekers. This is in pursuance of a statement of understanding reached in 1988 between UNHCR and the Hong Kong Government under which UNHCR indicated its commitment to meet the costs as provided in project agreements and subject to availability of funds. In reply to an observation of the Board, the Administration asserted that there was no legal liability on the part of UNHCR regarding the cumulative expenditure incurred by the Government of Hong Kong and that after consultations with a number of Governments, the note was included as an explanatory note and as a one-time action. The Board has taken note of this assertion while forming its opinion on the financial statements.

2/ A/48/530

Liquidity position

33. In paragraph 21 of resolution 47/211 of 23 December 1992, the General Assembly requested the Secretary-General and the executive heads of United Nations organizations to ensure that future presentations of liquidity positions are made in the context of the common accounting standards. The liquidity position as at 31 December 1993 for the voluntary funds administered by UNHCR is set out in Schedule 10.

34. The current assets of $817.5 million exceeded current liabilities of $478.7 million by $338.8 million. Forty-two per cent of the current assets was in short-term investments totalling $340.4 million which could be used to settle 72 per cent of the current liabilities.

35. Included in the total current assets are accounts receivable amounting to $449.9 million. Of these, $437.9 million or 98 percent represents unpaid pledges. These outstanding pledges increased by $104.1 million from $333.8 million as at 31 December 1992. In regard to current liabilities there was a significant increase in the outstanding obligations for projects, by $69.8 million from $401.99 million as at December 1992.

Budgetary control

Over-budgeting of annual programme

36. The appropriation as per schedule 3 represents the requirements as approved by the Executive Committee to implement UNHCR General Programmes. The difference between the appropriation and the final obligation is the unobligated appropriation and represents overestimates of requirements. The Board noted that there was an unobligated balance of $20.8 million under the annual programme as at 31 December 1993. This was the highest balance recorded in recent years; the corresponding figure as at 31 December 1992 was $3.5 million. The past trend in cancellation of unliquidated obligations and the present increase in the unobligated balance clearly indicate that there is considerable over budgeting. The following table illustrates this:

(In millions of US Dollars)

Year	Executive Committee Appropria-tions	Payments/ Deliveries	Unliquid-ated obligations	Total (3) + (4)	Unobli-gated Balance (2)-(5)	Prior years obligat-ions cancel-led
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1992	366.5	302.3	60.7	363.0	3.5	27.0
1993	388.2	309.3	58.1	367.4	20.8	29.5

37. The Administration stated that the unobligated balance may be due to a variety of factors such as, reduced case load, delays in implementation and changes in planned activities. However, the Board's review of project budgeting and financial control in the field offices revealed that the exercise needed refinement and strengthening. The Administration conceded that budgetary control should be strengthened and informed that it intended to review the procedures on obligation of funds and the project spending process. The Board recommends that, additionally, the project budgeting techniques and procedures should also be reviewed and refined so that the budget could become an effective tool for expenditure control. The review should also cover special programmes.

Liabilities

Amount payable to United Nations Development Programme

38. The amount due to UNDP as per Statement I was $65,000 as at 31 December 1993. The Board, however, noted from the current accounts statement (CAS) summary of UNDP that the balance receivable from UNHCR was $608,540. The Administration clarified that the recording of IOVs by UNDP in their CAS did not necessarily mean acceptance of these charges on the part of UNHCR as its liability and that these needed verification and acceptance. The Board noted that when UNDP CAS was received, all transactions reflected therein are recorded in UNHCR/UNDP Reconciliation Account. The Board, however, suggests that a suitable note may be made to the financial statements in future to explain the position.

Write-off of losses of cash, receivables and property

39. In accordance with UNHCR financial rule 10.6, the Board was informed that cash and receivables amounting to $63,361 were written off during the year 1993.

40. Losses of non-expendable property items valued at $3,316,630 were established in 1993 for write off action. These property items were lost through the following circumstances as reported to the Property Survey Board by various field offices:

	(United States dollars)
Civil disturbances	2,697,998
Armed robbery	147,061
Ordinary theft	394,450
Fire	200
Weak internal controls:	
Lost by staff members	12,738
Missing	64,183
Total	3,316,630

41. The Board noted that only $15,691 was recovered from the insurance company and that the possibility of submitting insurance claims for $69,264 was to be examined. Further, $3,242 is to be refunded by staff members and $20,000 was to be claimed from others.

Ex-gratia payments

42. One ex-gratia payment of $28,112 was made in 1993, on humanitarian grounds, due to serious illness of a staff member who had resigned. The amount represented the balance of the staff member's sick leave entitlements. The Board of Auditors was provided with details of this payment and the Board ascertained that this was in accordance with UNHCR financial rule 10.5.

Part II: Management issues

Cash management

Short-term investments

43. Deposits are stated to be spread over a number of banks in order to avoid an over-concentration of investments in a few institutions. There is scope for increasing the interest earnings. The Board was informed that the investment policies and procedures laid down in 1990 were under review to make the necessary adjustments to the increased volume of investments. The Board recommended and the Administration agreed that in order to maximize the interest earnings consistent with the safety of investments, maximum levels of investment with various banks be fixed depending on the banks' rating.

44. The Board further noticed that considerable cash balances were held in non-interest bearing current accounts in various banks around the world. The Board felt that it should be possible to earn some interest on such surplus balances either by negotiating a suitable arrangement with such banks or investing in short-term deposits elsewhere. The Administration had an arrangement with one bank to transfer all amounts in excess of a specified limit to an interest-bearing account with another bank at the beginning of every month. The Board suggested a similar arrangement in respect of the remaining non-interest bearing current accounts. The Administration agreed to establish limits for maximum cash balances in major current accounts and to study whether they could be kept unchanged for reasonable periods of time.

45. Strongly endorsing the Board's observations that UNHCR should ensure the best return on its money, the Administration stated that a number of activities would be undertaken by Treasury Section during the coming year. These would include a general review of investment policies and procedures, more effective monitoring of cash requirements and improved management of bank accounts. The timing of these activities would very much depend on the availability of additional and more professional resources within the

Treasury Section. The Board welcomes this initiative and urges that action may be taken accordingly, as soon as possible.

Programme management

Assessment of refugee population

46. In accordance with the UNHCR manual, the planning exercise for post-emergency and repatriation programmes should include a detailed "needs and resources assessment" based on, among other things, collection of reasonably accurate demographic data. The Board found in an interim review of 15 projects/sub-projects of 1992 and 1993 Kenya programmes that this assessment was not carried out for any of the projects. Attempts at demographic data collection were stated to have "met with violent resistance from refugees, or deliberate sabotage by inflated figures and inaccurate information". Even head-counts and registration of refugees in camps were also reported to have failed, until April/May 1993.

47. In a report for April 1993 one of the implementing partners, CARE International, had mentioned that a census effort in a refugee camp in Kenya failed due to refugee resistance and a great threat of violence (by the refugees and parties interested in keeping feeding figures high). It was further mentioned that although it was generally agreed by UNHCR that the actual population figure was closer to 50,000 if not less, the feeding population was 80,000. No action was taken on this report in the UNHCR headquarters. The Board felt and the Administration agreed that in view of the over estimation of refugee population which had serious financial consequences, some follow up action should have been initiated.

48. In another refugee camp in Kenya there was no reliable population figure mutually acceptable to the UNHCR and the Government of Kenya. The UNHCR branch office considered the planning figure of 5,000 to be an overestimate. A head-count in September 1993 gave the figure at 2,000 persons. Thus, nearly three-fifths of the direct expenditure for the refugees in this camp appeared unjustified.

49. The problem was not confined to Kenya alone. The Board noticed it in Ethiopia also. In respect of a major care and maintenance project of 1993 the refugee population was taken as 385,000 which was subsequently altered as 300,000. However, in the progress report for the period up to June 1993 submitted by the implementing partner, Administration for Refugee Affairs (ARA), a total of 632,975 refugees holding ration cards was reported. In spite of spontaneous repatriation of refugees back to Somalia in earlier years, there was no reduction in the card holding population, pointing to the possibility of benefits being shared by others. The actual refugee population was estimated to be in the region of 200,000. According to the UNHCR Regional office there were several factors which discouraged proper registration of the refugees, including threatened violence. However, ARA maintained that "re-registration can be and should be done". The Board urged that steps should be taken on a priority basis for the correct assessment of the refugee population so that the programme could benefit only the target group and that there may be no wastage or leakage of resources. The Administration informed that UNHCR was discussing with the

Government steps to revalidate ration cards, which were expected to better ensure the delivery of benefits to genuine refugees.

50. The Board is of the view that maintenance of reliable data on refugees is the primary responsibility of the UNHCR and a way has to be found to discharge that responsibility effectively. Also, without reliable data UNHCR cannot provide the required assurance that funds entrusted to it are being effectively utilized. Accordingly, the Board suggested that UNHCR should, with the help of the host Government, create conditions conducive to organizing demographic data collection in refugee camps, without which no activity can be reliably planned and funded.

51. As the problem seemed to be widespread, the Board suggested that suitable instructions should be issued to all the field offices to ensure a reasonably correct assessment of the refugee population. In response, the Administration informed that draft registration guidelines and a registration kit have been developed and tested in various places and that the package was expected to be finalized in the first half of 1994. Further, a streamlined field-based registration system to provide needed computer support to the refugee registration exercise was being developed and would be deployed as a part of the emergency preparedness and response registration kit. The Board recommends that in addition to providing guidelines and better tools for refugee registration, conditions conducive to organizing the census have to be created in concert with the host governments and main implementing partners.

Delay in signing of agreements

52. The project agreements signed between UNHCR and implementing partners constitute the legal instrument for commencing implementation of projects. The Board found that delays in the signing of agreements was an endemic feature. In a large number of cases funds had been released and the implementation taken up even though the related agreements had not been signed. Admittedly, there was the risk of loss of control when implementation proceeded without a firmly agreed project description and budget.

53. The delays were attributed in some cases to the late receipt of Letters of Instructions (LOI) from UNHCR headquarters. In Ethiopia, since almost all the sub-agreements were tripartite, the time taken by the main implementing partner, ARA, further delayed the signing of the agreements. However, ARA felt that the delays were mainly due to difference in perception regarding project formulation.

54. The Board recommended that the difference in perceptions between UNHCR and implementing partners should be resolved early by advancing the project formulation exercise and the delays in signing project agreements minimized. In response, the Administration informed that the programme cycle has been modified and that one of the major improvements is the earlier issuance of implementing instruments, which in turn will allow for an earlier signature of project agreements. In addition, activities were stated to be underway to improve the relationship between UNHCR and its implementing partners.

55. In Hong Kong, since 1988 no agreement has been signed with the major implementing partner, the Hong Kong Government. Only a Letter of Intent was being exchanged every year, without any project details and firm budget. As indicated by the Board earlier in paragraph 32 of this report, there is no clear understanding of the UNHCR's commitment to meet the costs incurred by the Hong Kong Government. The continuation of this uncertainty is not desirable.

Project support costs

56. The Board's review of care and maintenance project budgets in the UNHCR regional office at Buenos Aires revealed variations in the agency operational support costs for projects implemented in various countries of the region. These were 14.4 per cent in Uruguay, 21.0 per cent in Bolivia and 19.4 per cent in Peru. Although in principle, the implementing partners are expected to cover their over head costs, there was no indication of any such contribution in the project budgets.

57. In Hong Kong, the per capita staff costs of seven implementing partners of care and maintenance project varied from HK$85,932 to HK$164,853 during 1993. Such wide variation for similar sub-projects cannot be justified.

58. In an interim review at UNHCR headquarters, the Board has raised the question of establishing some norms to regulate the over head costs of implementing partners. The Administration informed that UNHCR and NGOs have begun a series of regional meetings called PARINAC (Partnership in Action), to address a number of issues and that the issue of overheads was being dealt with as part of this process. The Administration hoped that reasonable norms could be established as a result.

59. The Board believes that there is a lot of scope for economy both in overheads of UNHCR field offices and their implementing partners as well as in project personnel expenditures. For instance, for all the country programmes implemented by the UNHCR Buenos Aires regional office, the programme support and administration, the project personnel and the agency operational support costs were extraordinarily high compared to the total project costs. The Board considered this to be unjustified. The programme support and administration cost in Hong Kong was also high as mentioned in paragraph 73 of this report. The Board recommended that UNHCR should take steps to contain both direct and indirect staff and administrative costs within a reasonable limit.

60. The Board was informed that "UNHCR has recently completed a categorization of posts exercise in an effort to more appropriately distinguish between administrative support activities and those activities directly related to the delivery of the programme, including protection. In addition, the annual regional operations review now considers staffing as an integral component of the review of programmes, programme delivery and administrative support requirements". The Board hopes that these would help to address the issues raised in paragraphs 58 and 59.

Financial and physical monitoring

61. The Board noticed several deficiencies in the financial control of projects implemented through various agencies. These were irregularities in handling cash, inadequacies in the maintenance of cash books and project accounts, combination of incompatible functions such as payments and accounting by the cashier, expenditures in excess of allotments, misclassification of expenditure, diversion of funds, payments not covered by project agreements, unauthorized write-off of non-expendable property, lack of familiarity with the implementing partners' recording system, non-submission or inordinate delays in submission of project monitoring reports. etc.

62. Notably in Ethiopia, in view of delays in the closure of project accounts (projects relating to 1989 were being closed) and the deficiencies in the maintenance of the accounts by the main implementing partner, the Board recommended and the Administration agreed that the accounts of the implementing partners should be inspected by the Regional Office Finance Officer, in detail at regular intervals to correct the deficiencies in time.

63. In Hong Kong, the Board noted that generally project objectives were not stated clearly. Further, details of the physical progress to be achieved from time to time were not indicated. In the absence of these, no effective physical monitoring is possible. In any case, monthly reporting in a prescribed format by the UNHCR field staff, on the progress of implementation of projects was discontinued in 1992.

64. In Kenya too, there appeared to be no meaningful physical monitoring of projects, although programme officers visited implementing partners' offices and project sites. The Board recommended that the frequency of the visits should be increased and the outcome of the visits systematically documented. The Administration agreed but stated that "situations may exist that make it very difficult to strictly follow this recommendation."

65. In Ethiopia, on a review of two major care and maintenance projects, the Board noticed considerable shortfall in achievement of planned levels of assistance. The Board recommended and the Administration agreed that realistic targets be fixed jointly by UNHCR and implementing partners.

66. Reacting to the outcome of the interim review of the Board at the UNHCR headquarters, the Administration had inter alia stated as follows:

> "the Controller's Division is currently focusing on the development of a number of proposals designed to strengthen and professionalise the relationship between UNHCR and its implementing partners. These will include streamlining and improved clarity in the sub-agreement and, improved financial monitoring and reporting. An initial proposal related to this will be available by mid-1994."

67. The Board welcomes the initiative taken by the Administration to address the problems. The Board would, in particular, stress the need to impart necessary training to the implementing agencies and to undertake effective financial and physical monitoring visits by UNHCR field offices.

To enable meaningful physical monitoring of projects, realistic targets should be fixed jointly by UNHCR and implementing partners.

Evaluation

68. The Board noticed, in its review in the UNHCR field offices, that there was no systematic self-evaluation of completed projects in order to obtain feedback from project implementation which would facilitate learning lessons for the future in an endeavour to improve project planning and implementation. When a recommendation was made in relation to Kenya, the Administration agreed to have the evaluation conducted on a regular basis.

UNHCR manuals and guides

69. The social workers in the South Latin American region are unable to use the UNHCR Social Services handbook in the absence of its Spanish version. As a result the procedures and guidelines contained therein are not being followed. The Board recommends that the appropriate language versions of important manuals and guides should be available in the various regions where UNHCR operates.

Unusual arrangement with an implementing partner

70. An agency for volunteer services has been chosen as an implementing partner by UNHCR field office in Hong Kong for providing staff and equipment support. The field office advertises staff requirements, processes applications and holds selection interviews. The agency is only informed about the persons selected and the remuneration payable in order to enter into contracts with those persons. Such staff members are seconded to the field office and work under its supervision. Even for temporary assistance, the agency is only informed about the names of the persons appointed and the amounts to be paid to each. Further, procurement of furniture, photocopier, office supplies etc. is also done by the field office and the bills are passed on to the agency for making necessary payments.

71. All the functions are thus in effect being carried out by the field office and the agency merely functions as a clearing house for which a separate payment is made annually. In 1993 this amount was HK$290,400 (US$37,568). The Board was informed that the arrangement was adopted as recruiting staff under UNHCR would entail complicated post creation formalities, higher salaries and perquisites. There was however, no evidence of any comparative analysis of costs having been made. Since the normal procedures of staffing control are not followed, the Board doubts whether this arrangement is indeed cost saving.

72. The Board also noted that consultants engaged by the field office are continued for prolonged periods up to three years under the agency contracts thereby circumventing the limit of tenure laid down. In the case of one staff member under the agency contract, there was over payment of one month's salary (September 1993) owing to failure of the field office to intimate the resignation of the staff member to the agency. Under this

arrangement there also appears to be no control over the non-expendable property acquired, as no inventory record is maintained.

73. There is excess staffing in the field office. Consistent with a commitment to gradually reduce staffing, the field office suggested in August 1992 the transfer of the post of an administrative officer to another duty station. There was no response to this from UNHCR headquarters nor was it followed up by the field office.

74. In view of the foregoing, the Board recommended that the staff and administrative expenditure of the field office (including the expenditure incurred through the agency) should be critically reviewed and economy effected. The propriety of the peculiar arrangement with the agency in the context of the need for control over staffing and acquisition of non-expendable items, should be examined and a more effective and transparent alternative adopted.

75. The Administration informed the Board that this "is a modality that has been used very successfully by UNHCR in a number of other locations e.g. Thailand, Philippines. UNHCR would not necessarily wish to eliminate this type of modality but rather ensure that contractual arrangements are established in a professional and consistent fashion that ensures effective management control of UNHCR resources."

Procurement

Annual Purchase Plan

76. The Board's review of procurement planning for the year 1993 revealed that Annual Purchasing Plans (APP) for at least 20 countries had not been received as at 15 November 1993 i.e. a year after the due date. A subsequent review in March 1994 revealed that for the year 1994 plans for only seven countries were received. This response was admittedly inadequate to have the APPs as a tool to rationalize long term purchases. Apart from providing the Headquarters with information on the types and quantities of goods for which purchase requests are likely to be received, the expected delivery dates indicated in the plans would facilitate timely initiation of the process keeping in mind the lead time. The Board therefore felt that there was a need to strengthen the mechanism for ensuring timely preparation and submission of the purchasing plan.

77. In their response the Administration stated that considering the preponderance of purchases for emergency and special programmes and the irregular inflow of pledges, the utility of an Annual Purchasing Plan was limited. The Board, however, felt that there had to be a planned response even to a refugee emergency and that in view of the irregular flow of funds, at least the price could be settled in advance for a year for frequently used items as far as possible, so that purchases could be made at the agreed price throughout the year. The Administration agreed that the issue needed to be looked into. The Administration further indicated that internal consultations would be held to determine how the potential of APP could be best realized.

78. Apart from helping the process of purchases at headquarters, the APPs would help organizing better, the purchases made by the respective field offices. The Board found that in the absence of an APP, UNHCR Branch office in Kenya was issuing purchase authorizations piece-meal, which was not cost effective. The Administration informed the Board that UNHCR was looking into this in an effort to improve the system.

Delays in delivery of goods

79. The Board reviewed the international purchases relating to Ethiopia from where an annual purchasing plan for 1993 had been received. In respect of 99 purchase orders issued during the period 1 January to 30 September 1993, delays in delivery were noticed in 75 cases, with reference to the desired dates of arrival at the respective ports of discharge. In respect of a few specific cases of inordinate delay the Board was informed that the desired dates of arrivals were indicated on the basis of information received from the field, e.g., the Purchasing Plan and that while every effort was made to meet the desired dates, this was frequently not possible depending on other purchases in the pipeline and therefore, estimated dates of shipment were provided. Thus, the impression given was that there was not much of a delay in case the "estimated date of shipment" was taken as the starting point. The Board, however, felt that in order to ensure smooth implementation of projects, it was necessary to adhere to the desired dates of delivery as indicated by the field offices concerned, while processing procurements.

80. Although "the time frame for the proposed order from issue of the contract to final delivery at destination" was required to be stated in the Quotation Request, the Board found that this was not being done. Instead, prospective suppliers were requested to state the earliest date on which delivery could be made. The Board felt that the scheduled delivery date was one of the important specifications that the purchaser should indicate. In fact, the time-frame for delivery was systematically included in the Quotation Request up to 1988. It was deleted, however, on the recommendation of the purchasing staff, as in their experience it was felt that suppliers tended to repeat the stated delivery date on their offer, without regard to the actual situation, in the hope of getting the order. The Administration stated since the supplier had been requested to state his delivery date it was felt that the information was more reliable.

81. The Board is of the view that the purchases ought to be made in all respects, quality, quantity and time, according to the need. In case there is a delay in delivery with reference to the desired date, a suitable penalty could be levied. Such a penalty clause could be specifically incorporated in the Purchase Order. A late delivery penalty is already included in purchases for former Yugoslavia and other programmes where donors have imposed a tight schedule for use of their funds. The Administration promised to consider the pros and cons of a wider application of the penalty clause in future discussions.

Standardization of equipment

82. The annual exercise that took place until 1990 to standardize on equipment and suppliers had reportedly "created some major setbacks, deliveries were becoming slack and in several instances the relationship between these suppliers and UNHCR was severely hampered by the fact that they took their business for granted". Accordingly, this was discontinued. However, in view of the pressing need again, an attempt was made in 1992 to standardize various radio equipment and suppliers on the basis of a tender floated. The Committee on Contracts recommended the standardization of equipment and suppliers for a period of two years and requested a review on the performance and prices of the suppliers once in six months continuously. The Board found no evidence of any such review. The Administration stated that "steps are underway to establish a formal review mechanism that will respond to the different exigencies. In the meantime the search for the new suppliers is on-going". The Board noted that purchases of radio equipment more than doubled from 1991 level of about $3.4 million to approximately $6.9 million in 1992.

83. The Board felt that unless an equipment standardized was available only from a single source, it would be necessary to standardize the price also. According to the Administration there were the practical considerations of getting a supplier to agree to a firm price for such an extended period (two years). However, earlier experience in 1991 had shown that equipment could be directly procured from the manufacturer at half the price of his agent who was UNHCR's previous supplier. In view of this, the Board recommended that whenever equipment which was available from more than one source, was standardized for purchase from one source there should also be standardization of its price at least in the short run (one year) in order to promote cost effectiveness. In response, the Administration stated that the recommendation would be taken into account at the time of the review of the standardization policy for radio communication equipment. However, prices for cooking sets, blankets and vehicles had been negotiated for one year.

Procurement by implementing partners

84. In Kenya, the Board noticed that the value of procurement handled by the UNHCR field office is only a small percentage of the annual budget. The majority of the procurement is made by the implementing partners as part of the project expenditure directly incurred by them. As per the project agreements, the implementing partners must also follow the procedure prescribed for UNHCR procurement including, inter alia, competitive bidding. The Board did not, however, find any evidence of a system of ensuring compliance with this requirement. The Board recommended that a suitable system be devised to ensure that the implementing partners follow the UNHCR procedures for procurement, thereby enhancing the cost effectiveness of projects. The Administration indicated that it was reviewing the monitoring role as part of an overall project towards professionalizing the relations with implementing partners.

Possibility of decentralization of procurement

85. In Ethiopia, the Board noted that international purchases through UNHCR headquarters included soap, kitchen utensils, sewing machines, jerry cans and blankets. Although it was stated that international purchases were requested after an assessment, inter alia, of the quality, price and delivery of locally available supplies, there was no evidence of such a detailed assessment. It was only after the audit such an attempt was proposed to be made.

86. The Board felt that items which could be procured with advantage locally should be systematically identified in consultation with the main implementing partners. Further, wherever possible, regional procurement should be resorted to, and the arrangements for such procurement should be strengthened. The Administration informed the Board as follows:

> "It is already the policy of UNHCR to make local and regional purchases when appropriate and competitive. A number of measures have been taken to ensure that the implementation of this policy respects international price competitiveness and United Nations Financial Regulations and Rules. Regional purchasing offices with a professional purchasing staff have been established in areas of high demand, i.e. former Yugoslavia, Kenya, South Africa. A senior purchasing officer is responsible for assessing local/regional procurement possibilities, particularly during emergencies. Supplies and Transportation Section (STS) is also assisting the Emergency Preparedness Response Section (EPRS) to train staff in identifying local suppliers and effecting purchases. UNHCR is studying the possible decentralization to the field of a number of functions, including procurement".

87. In Kenya, although the Nairobi office has been designated as the regional procurement office, the Board found that there was hardly any procurement on behalf of other UNHCR offices in the region, partly because of lack of adequate staff support. The other offices were not forwarding their purchasing plans to the Nairobi office.

88. In view of the vast increase in the activities of UNHCR and the spread of the Organization, the Board believes that a measure of decentralization of responsibility with adequate accountability arrangement is necessary for a more effective functioning. Accordingly, the Board recommends that the procurement policies and procedures should be reviewed and steps taken for progressive decentralization of the procurement function.

Insurance

Insurance arrangements

89. The UNHCR Committee on Contracts in its 417th meeting held on 19 February 1988 agreed to remain with the present insurance company through brokers, subject to:

a) a detailed study and subsequent clearance by the Legal Adviser regarding the wording of the clauses and implied coverage; and

b) the conditions being reviewed next year and changes reported to the Committee for the second and subsequent years.

90. The Legal Adviser's report was not available for the Board's scrutiny as the documents were destroyed after the usual period of five years. The Board felt that such important records should be preserved for a longer time.

91. A memorandum dated 7 September 1992 from the Legal Consultant addressed to the Chairman, UNHCR Committee on Contracts indicated that the limited coverage offered by the underwriters in respect of war and strikes, riots and civil commotion clauses might not justify the cost. It was suggested that a review might be useful to establish the future insurance needs of UNHCR. While acknowledging the merits of the suggestion, the Administration stated that they "are currently embarking upon a review of UNHCR's insurance arrangements".

Profit commission

92. The Board noticed that a profit commission clause was incorporated in the contract with the Underwriters effective from 1 January 1989. According to this clause UNHCR was entitled to a profit commission amounting to 50 per cent of the difference between 50 per cent gross marine premium and net claims subject to certain conditions. One of the conditions is that the commission is payable for a year, only if the contract is renewed for a further period of 12 months.

93. The profit sharing commission for 1989 was stated to have been off-set against 1991 premiums rather than refunded to UNHCR directly. For the period 1990 to 1992, the profit commission totalling $63,776 was received in July 1993. The correctness of the calculation of this amount could not be verified. The Board was informed that the commission was based on the broker's account with the underwriters and not on the broker's account with the client. As UNHCR did not have immediate access to the twelve underwriters' books, the Administration also expressed their inability to confirm the correctness. The Board considered this to be an unsatisfactory arrangement. Accordingly, the Board recommended a review of the arrangements so as to make it transparent. The review should also cover the conditions governing the commission.

Possibility of over-Insurance

94. UNHCR Insurance Policy for transportation of cargo is an open cover policy and insurance declarations can be made at any time during the term of the policy. It is not necessary for coverage to be in place before a shipment begins its voyage.

95. The value of UNHCR's purchases increased steeply from $43 million in 1990 to $190 million in 1991 and is expected to remain between $150 and $200 million for the foreseeable future. A significant change is that most

of the additional purchases have been transported by road within Europe, the Far and Middle East. Road transport in these areas is stated to be relatively a low risk activity and UNHCR has negotiated a lower premium.

96. A comparison of the rate of refunds against premiums paid revealed that overall, the return has been approximately 35 per cent. This, admittedly, suggested that in spite of the reduction in premium, UNHCR may still be over-insured. The Board was informed that this was one of the many aspects that would be considered while reviewing UNHCR insurance arrangements.

97. The Board suggested that the system of filing declarations for insurance be critically reviewed to assess the possibility of restricting it to the consignments destined for high risk areas, thereby reducing the amount of premium paid. In response, the Administration stated that the issue needed to be studied carefully as it would have a fundamental impact on current procedures and that in due course, a recommendation would be made.

98. The Administration indicated that UNHCR's agreement with its insurance brokers would be reviewed in 1994 and that the suggestions made by the Board would be taken into account.

Personnel management, payroll and staff costs

Irregular engagement of personnel

99. The Board noticed that 14 staff members recruited for a project were working at the Regional Office, Addis Ababa. Earlier in this report, the Board has dealt with the staffing of the field office in Hong Kong, through a project agreement signed with an implementing partner. Additionally, there is a widely prevalent practice of engaging consultants for regular work of UNHCR. All these circumvent the regulations regarding creation of posts and recruitment of personnel.

100. As regards consultants engaged for regular work the Administration informed the Board as follows:

> "This problem has now been addressed in broader and comprehensive terms under the concept of the Emergency Preparedness and Response. Under these proposed solutions, emergency teams would be deployed immediately to respond to early critical needs pending the creation of regular staff for longer periods. Once this system is fully operational, the need to resort to consultants for tasks other than technical expertise would be greatly curtailed."

101. The Board recommends that in future the engagement of personnel for regular work of UNHCR should be limited to the authorized level of posts and effective staffing control should be exercised.

Recruitment plan

102. A Local Recruitment Committee was formed in Nairobi for the first time in June 1993 and its terms of reference were finalized locally in October 1993. The Board recommended that the terms of reference should be based on uniform guidelines provided by the UNHCR headquarters in order to standardize the procedure for recruitment of local staff by field offices. The Administration informed that "considerable efforts are presently being made to establish a comprehensive recruitment plan which we believe will respond to the recommendations made".

Training

103. The Training Section under the Division of Human Resources Management, is responsible for promoting and coordinating training activities at Headquarters and in the field, designed to improve staff performance and the efficiency of implementing partners. In 1993, based on the training plan requests from the field offices, 497 courses estimated to cost $2,917,600 were planned. However, only 303 training courses were conducted. The Board was informed that the rest of the courses were cancelled for a variety of reasons and mainly because of a 33 per cent budget cut. Considering the spread of the organization and the challenges faced by it and hence its training needs, this was inadequate. Not all the field offices had addressed their training needs and submitted training plans.

104. Although the Administration claimed to have conducted 303 training courses during the year as against 497 planned, the Board's review of the courses summary list indicated that 151 courses were conducted. The Administration clarified that the course evaluations (including the number of participants, date and location) not received after completion of the training courses were not recorded in the summary list. Obviously, monitoring of the training was not effective enough. Further, the Board was informed that the implementation of training activities was also hampered by non-availability of resource persons and lack of field training coordinators.

105. A review of the training activities in Kenya revealed that most of the training areas indicated in the first ever annual training plan could not be covered until October 1993. Until that time some success was achieved only in the areas of technical training for secretaries and field training for drivers, as well as some trainers' training and a computer course. There was no evidence of well-directed training activity. A review in Hong Kong revealed that there was no training plan.

106. The Administration is aware of the limitations of its monitoring mechanisms, existing system for budgeting and lack of systematic tools for maintaining up-to-date information on all aspects of training activities and its implementation. What is more important is the comprehensive and realistic assessment of training needs and development of training modules. The Board accordingly recommends that the Training Section should be qualitatively strengthened, to effectively plan and deliver the training programme consistent with the changing needs.

Account receivable from a staff member

107. A staff member who was working in Hong Kong did not return an advance of $8,279 for one year after it was due to be returned. The amount was advanced to facilitate payment of a deposit for leasing a house and was to earn interest at the rate of 5 per cent per annum. The staff member did not return the amount before leaving Hong Kong on reassignment. The amount could be recovered only after it was pointed out by the Board in March 1994. The interest earned on the deposit had not been refunded. Further, there appeared to have been some overpayment of rental subsidy. The Board would like this case to be investigated by UNHCR for appropriate action.

Computer operations and EDP systems

Financial management information system

108. The software being used as the Financial Management Information System (FMIS) in the field offices is a proprietary package developed for the UNHCR. This consists of two modules, Field Office Accounting System and Field Office Budget System. The FMIS does not provide for recording of the obligated amounts under the Letters of Instructions (LOIs) and their amendments. Further, there is no provision in the system for entering the purchase orders and therefore it does not take into account the commitments until the payments are made. Therefore, it is not useful to those who are responsible for authorizing procurement of goods and services.

109. The FMIS does not have a LAN version and this has necessitated the procurement of a very large number of stand alone PCs thereby wasting computer processing power.

110. The Board recommended that the feasibility of modifying the FMIS to enable recording of obligations as and when incurred and of installing a LAN version of the system, should be considered by the UNHCR headquarters. The Administration informed the Board that the whole FMIS was being investigated with a view to ensuring that the system met the changing needs in the field and that a LAN version was being developed for delivery by the end of 1994.

Cases of fraud and presumptive fraud

111. The Board was informed that during the year two cases of fraud had occurred, one in Sikhiu camp in Thailand and another in Tanjung Pinang in Indonesia involving $2,709 and $17,690 respectively. In Sikhiu camp, the fraud was committed by a petty cash custodian and his contract was terminated and $1,053 recovered. In Tanjung Pinang, the fraud was committed by a Finance Assistant who misappropriated unutilized cash funds. No recovery was made from him and he was suspended. The Board was informed that the internal controls have been strengthened to prevent similar cases in future.

Acknowledgement

112. The Board of Auditors wishes to express its appreciation for the cooperation and assistance extended to the auditors by the High Commissioner, her officers and their staff.

Sir John BOURN
Comptroller and Auditor General
of the United Kingdom of Great Britain
and Northern Ireland

Osei Tutu PREMPEH
Auditor-General of Ghana

Codanda Ganapathy SOMIAH
Comptroller and Auditor General
of India

30 June 1994

ANNEX

Follow-up on actions taken to implement the recommendations of the Board of Auditors in its report for the period ended 31 December 1992 1/

I. RECOMMENDATION 9 (a)

1. (i) The Administration should review its procedures to prove the effectiveness of its internal controls on cash resources;

(ii) The UNHCR Section of the Internal Audit Division should have as one of its audit priorities next year the strengthening of internal controls on cash resources in field offices.

A. Measures taken by the Administration

2. (i) The ceilings of field offices' Zero Dollar Imprest Accounts have been reviewed and adjusted where appropriate. As regards creation of separate bank accounts for UNHCR projects, implementing partners' attention is drawn to the requirement continuously. The petty cash limits are established primarily on the basis of needs, but the time required for transfer of funds must be taken into account. The internal controls at headquarters have been strengthened by increasing staff strength for cash management. In the field offices, the process of implementation of the recommendation is being continued.

(ii) Efforts are being made to establish appropriate audit strategies and to strengthen the capacity of the Internal Audit Section dedicated to UNHCR.

B. Comments of the Board

3. Implementation of the recommendation in the field offices is to be pursued vigorously. The Board understands that the Internal Audit Section has started looking into the internal controls on cash resources in field offices, on a priority basis.

II. RECOMMENDATION 9 (b)

4. The Branch Office in Costa Rica should immediately review its internal control system on cash resources, including a full examination of payments made without appropriate supporting documents and of cheques honoured and paid by banks without the required signatures.

1/ Official Records of the General Assembly, Forty-eighth session, Supplement No. 5E (A/48/5 Add.5), Sect I, para. 9.

A. Measures taken by the Administration

5. The internal control system on cash resources has been reviewed and action taken to strengthen internal controls. The review did not reveal any misappropriation or loss of funds due to the issue of cheques without the supporting documents and without the required joint signatures.

B. Comments of the Board

6. The Board had no occasion to review the position again in the field office in Costa Rica. However, the steps taken by the Administration seemed adequate.

III. RECOMMENDATION 9 (c)

7. The formulation of tripartite agreements where appropriate and related sub-agreements should continue vigorously to be pursued by UNHCR. Meanwhile, amendments should be made to existing agreements with implementing partners and executing agencies to include provisions on fund accountability and adequate audit coverage.

A. Measures taken by the Administration

8. The implementation of the recommendation is ongoing and negotiations with the host Government and the implementing partners is being continued. All UNHCR sub-agreements contain provisions for audits by not only United Nations internal and external auditors but also by the audit institutions of the host country.

B. Comments of the Board

9. Admittedly the audit provisions are not being followed in all instances. For instance, the Board had pointed out that as the bulk of the expenditure for the UNHCR Kenya Programme was incurred by the implementing partners who did not submit auditor's reports as required, it could not be said that the Branch office had satisfied itself that the expenditure had been incurred properly. It is therefore necessary to take steps to enforce these provisions.

IV. RECOMMENDATION 9 (d)

10. The administrative lapses and lack of coordination that have caused delays in the implementation of projects should be assessed and remedial actions undertaken.

A. Measures taken by the Administration

11. Considerable improvement has been made in 1993 by the introduction of "status reports" on the processing of LOIs in different UNHCR units. Another initiative taken in relation to 1994 LOIs is the introduction of an "advance LOI".

B. Comments of the Board

12. The Board noticed delays in the issue of LOIs during its audit for the year 1993 also. The Administration informed the Board that the programme cycle has been modified and one of the major improvements is the earlier issuance of implementing instruments.

V. RECOMMENDATION 9 (e)

13. UNHCR should review its system of allocating funds to projects to ensure a more efficient and effective distribution of resources. The Administration should continue with its review and cancellation of long outstanding unliquidated obligations, including those raised against contributions in kind amounting to $33.8 million at 31 December 1992.

A. Measures taken by the Administration

14. Prior year's projects are being reviewed regularly to cancel outstanding balances that are no longer required. The recommendation is being implemented as an ongoing structured exercise during the course of the year.

B. Comments of the Board

15. The Board is satisfied with the action taken to implement the recommendation.

VI. RECOMMENDATION 9 (f)

16. UNHCR field offices should institute measures that would lead to more economic and efficient utilization of resources by the implementing partners and executing organizations through proper monitoring and more frequent visits to refugee camps and other areas of operations.

A. Measures taken by the Administration

17. UNHCR has undertaken an in depth review of the processes of selection and management of implementing partners, as well as the financial systems and procedures, with a view to streamlining and strengthening financial

B. Comments of the Board

18. The Board will review the implementation of the recommendation and the impact thereof in its future audits.

VII. RECOMMENDATION 9 (g)

19. UNHCR should continue to develop its plan and strategy for the computerization of its financial and personnel management systems in a more comprehensive and integrated form. Close coordination with the United Nations Integrated Management Information Systems Committee would be useful in order to benefit from its experiences and to adopt systems already developed that could be made applicable to the UNHCR environment.

A. Measures taken by the Administration

20. UNHCR has been in close contact with the IMIS New York team through the past year and is testing the personnel system on a pilot basis. With regard to the financial system, a study is being undertaken to assess whether IMIS will meet the future information system needs of UNHCR. This study is scheduled for completion in 1994.

B. Comments of the Board

21. Necessary action has been initiated.

VIII. RECOMMENDATION 9 (h)

22. (i) The recently established task force should continue to analyze and process the reports for the completed projects;

(ii) Quarterly reports on the status of report submission should be generated for general circulation;

(iii) Reporting requirements as set out in the agreements and sub-agreements should be enforced.

A. Measures taken by the Administration

23. The task force set up to clear the backlog of project monitoring reports is near completing its task. The existing procedures for project closure is also under review which is targeted for completion by mid-1994. The status of report submission and projects outstanding for closure has been computerized and is available on-line to all users. The review referred to in the action taken on recommendation 9 (f) as well as the [illegible] reporting requirements as set out

B. Comments of the Board

24. The Board found that there was still a large number of completed projects awaiting closure as at 31 December 1993, causing concern. All the three members of the task force having left, the exercise could not continue. The Administration was thinking of a larger task force to tackle the problem. The Board will again review the progress.

IX. RECOMMENDATION 9 (i)

25. The circumstances prevailing in the hiring of consultants and temporary assistance should be reviewed to determine whether exceptions from existing or new administrative instructions dealing with UNHCR may be issued.

A. Measures taken by the Administration

26. UNHCR started a review in 1993, which is likely to be completed by mid-1994.

B. Comments of the Board

27. Action has been initiated in accordance with the recommendation.

X. RECOMMENDATION 9 (j)

28. Field offices should be instructed to comply with reporting requirements for goods received through international shipments.

A. Measures taken by the Administration

29. The purchasing system is being modified to generate reminders for receiving reports. Instructions have also been issued to the field offices for timely return of receiving reports.

B. Comments of the Board

30. Although there has been some improvement in the submission of receiving reports, the position still remains unsatisfactory. Compliance with the instructions by the field offices has to be ensured by effective follow-up.

XII. RECOMMENDATION 9 (k)

31. Procurement request documents should be completed fully to ensure prompt delivery of goods in accordance with specifications and to meet the needs of refugees.

A. Measures taken by the Administration

32. Written instructions addressing the full range of concerns related to procurement authorization were under preparation. Implementation was expected to be completed by the end of 1993.

B. Comments of the Board

33. Improvements were noticed in the preparation of procurement request documents.

XII. RECOMMENDATION 9 (l)

34. UNHCR should institute measures to strengthen the capacities of field offices to be able to comply with procurement regulations.

A. Measures taken by the Administration

35. UNHCR has started activities designed to strengthen the procurement processes, including the implementation of a computerized system for the management of procurement in regional offices. The implementation is under way and will be completed in 1994.

B. Comments of the Board

36. The action is not yet complete. The Board will examine the progress of the implementation of this recommendation in its future audit.

XIII. RECOMMENDATION 9 (m)

37. The Administration should continue with its efforts to locate other competent suppliers for a commonly needed item in all refugee operations.

A. Measures taken by the Administration

38. The work initiated in 1992 to find alternative suppliers has continued in 1993 with good results.

B. Comments of the Board

39. The efforts to locate alternative suppliers should be on a continuous basis.

XIV. RECOMMENDATION 9 (n)

40. The Board reiterates that the reports on contributions in kind should be submitted on a timely basis. In future, accounting for contributions in kind should be done in conformity with the common accounting standards being developed currently for the United Nations system.

A. Measures taken by the Administration

41. A special effort has been made by UNHCR to improve the submission of reports and the number of outstanding pledges has considerably decreased. The implementation is an ongoing process and will continue in 1994.

B. Comments of the Board

42. There is still scope for improvement.

XV. RECOMMENDATION 9 (o)

43. The maintenance of property records and applications of established procedures and of relevant forms for the control and disposal of non-expendable property should be enforced to establish proper accountability.

A. Measures taken by the Administration

44. A task force is presently revising the guidelines for managing non-expendable property with a view to implementing them in all field offices by the first half of 1994.

B. Comments of the Board

45. The action is not yet complete.

XVI. RECOMMENDATION 9 (p)

46. Negotiations should be pursued on behalf of UNHCR with the host Government on the status of local staff in Viet Nam.

A. Measures taken by the Administration

47. Negotiations by UNDP on behalf of all the United Nations agencies to resolve the issue, are under way and the results can be expected soon.

B. Comments of the Board

48. Action has been initiated in accordance with the recommendation.